

***United States Court of Appeals
for the Second Circuit***



APPENDIX

NO. 75-4155

United States Court of Appeals

FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

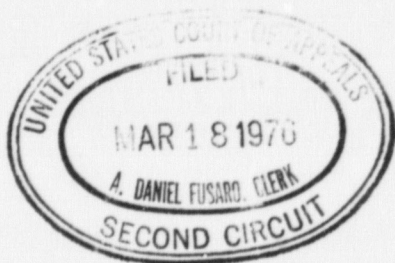
v.

COLUMBIA UNIVERSITY,

Respondent.

On Application For Enforcement Of An Order Of
The National Labor Relations Board

APPENDIX



ELLIOTT MOORE,
Deputy Associate General Counsel,
National Labor Relations Board.
Washington, D. C. 20570

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of: Columbia University

Case No.: 1-CA-13225

2.15.74	Charge filed
4. 4.74	Complaint and Notice of Hearing, dated
4.12.74	Respondent's Answer, received
5. 7.74	Order Rescheduling Hearing, dated
5.21.74	Hearing opened
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7.31.74	Administrative Law Judge's Decision, issued
9.12.74	Respondent's Statement of Exceptions to Administrative Law Judge's Decision, received
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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
COLUMBIA UNIVERSITY
and
DISTRICT 65, DISTRIBUTIVE
WORKERS OF AMERICA

Case 2-CA-13225

DECISION AND ORDER

On July 31, 1974, Administrative Law Judge Morton D. Friedman issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and the General Counsel filed a brief in support of the Administrative Law Judge's Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt his recommended Order as modified herein.

1. We find, in agreement with the Administrative Law Judge, and for the reasons stated in his Decision, that Respondent violated Section 8(a)(1) of the Act when it suspended and then discharged employee Drucilla Cornell. *N.L.R.B. v. Weingarten, Inc.*, 420 U.S. 251 (1975).

[2]

2. The Administrative Law Judge also found that Respondent further violated Section 8(a)(1) of the Act when it discharged employee Muriel

Hirschfeld for engaging in protected concerted activity. We find merit in Respondent's exception to this finding as we do not believe that the record evidence supports the inference -- drawn by the Administrative Law Judge -- that Respondent possessed knowledge of Hirschfeld's concerted activity at the time it made its final decision to terminate her employment.

Hirschfeld was hired on December 13, 1973,¹ to work as a switchboard operator in Respondent's telephone room, under the supervision of Chief Operator Onnie Lawton. As a new employee, she was to remain in probationary status for 60 days.

Testimony specifically credited by the Administrative Law Judge shows the following facts. On or about January 9, employee Betsy Reed, the clerk-typist attached to the telephone room operation, complained to Supervisor Lawton that Hirschfeld did not fit in with the other girls in the office. Lawton replied that others had made the same comment and observed that she would have to make a decision soon on Hirschfeld's status. On January 11, Lawton contacted Andrea Safran, an associate in Respondent's personnel department, and informed her that she desired to discharge Hirschfeld. Safran replied that no notice need be given as Hirschfeld was a probationary employee and advised that it would be easier if she was terminated at the end of a pay period. The then current pay period was to end on January 23.

¹ All dates hereinafter are in the period December 1973 through January 1974.

[3]

On January 22, Lawton told clerk-typist Reed that Hirschfeld was to be discharged and, on January 23 -- the last day of the pay period -- Lawton effectuated the termination.

It is undisputed that Hirschfeld engaged in no protected concerted activity prior to January 21. The Administrative Law Judge found that the decision to

terminate her was made 10 days earlier. Nevertheless, the Administrative Law Judge concluded that the discharge was violative of Section 8(a)(1) on the ground that Lawton did not set a definite date in advance for Hirschfeld's termination and did not finally decide on such a date until January 22, by which time she had gained knowledge of Hirschfeld's concerted activity.

* In concluding that Lawton's final decision to terminate Hirschfeld was not made prior to January 22, the Administrative Law Judge relied on the following three factors. (1) If, as alleged by Respondent, Lawton determined on January 11 to effectuate the discharge on January 23 so as to coincide with the end of the then current pay period, she would have taken steps to notify the payroll department to include in Hirschfeld's final salary check the extra day's pay to which she was entitled for having worked on Martin Luther King's Birthday (January 15) — a special holiday under Respondent's personnel policies.² Instead, Hirschfeld was only given a check for her regular pay and told that the extra pay due her would be forwarded at a later date. (2) Lawton did not tell Reed, her clerk-typist, about the discharge until January 22, subsequent to the commencement of Hirschfeld's concerted activity. (3) Lawton did not inform her

² According to Respondent's published personnel policies, employees who work on Martin Luther King's birthday earn the right to an extra day off with pay on a date of their own choice in the same fiscal year. It appears to be in the nature of compensatory time off.

[4]

department head of the discharge until January 23, the date it was effected.

In our view, the above-enumerated factors are not persuasive in evaluating the validity of the Administrative Law Judge's ultimate conclusion. From the record evidence, it would appear to have been impossible for Lawton to

have processed Hirschfeld's extra pay in advance because Respondent's holiday policy normally provided only an extra day off, not extra pay, for work performed on Martin Luther King's birthday; and it could not have been known to Lawton, prior to January 23, whether Hirschfeld would take the extra day off to which she was entitled or would need to receive monetary compensation in lieu thereof. As for Lawton's failure to give earlier notice of the discharge date to Reed and to her department head, that was of little significance as the record shows no need for her to have done so. There was no extensive paperwork relating to the discharge which required Reed's clerical services and Lawton had the authority to effectuate the discharge without the department head's advance approval. Further, it is noted that Lawton had only become a supervisor 3 months earlier and had never previously discharged an employee. Therefore, the particular procedures she utilized cannot be measured against those used if she had discharged employees in the past.

Considering all the above-noted circumstances and given the Administrative Law Judge's findings that Lawton communicated her intent to terminate Hirschfeld on January 11 and was advised to make it effective at the end of a pay period, we conclude that Lawton, in mid-January, decided not only to discharge Hirschfeld, but to do so on January 23 -- the next payday.

[5]

Therefore, as we have concluded that the decision to discharge Hirschfeld was made prior to the commencement of any concerted activity, such activity could not have been a causative factor in the discharge. Accordingly, we find that Respondent's termination of Hirschfeld was not unlawful, and we shall order that the complaint be dismissed insofar as it alleges that the termination of Hirschfeld is violative of Section 8(a)(1) of the Act.

The Remedy

Having found that the Respondent discriminatorily terminated and refused to reinstate Drucilla Cornell, it shall be ordered that the Respondent offer her

immediate and full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or other rights and privileges. Respondent shall make her whole for any loss of pay she may have suffered by reason of the discrimination against her in the manner set forth by the Board in *F. W. Woolworth Company*, 90 NLRB 289 (1950), together with interest thereon at the rate of 6 percent per annum as provided in *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1963).

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge as modified below and hereby orders the Respondent, Columbia University, New York, New York, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, as so modified:

1. Delete the word "similar" from paragraph 1(b), and substitute the word "other."

[6]

2. Delete paragraph 2(a) and substitute the following:

"(a) Offer to Drucilla Cornell immediate and full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or other rights and privileges previously enjoyed, and make her whole for any loss of earnings she may have suffered by reason of the discrimination against her in the manner set forth in the section of this Decision entitled 'The Remedy'"

3. Substitute the attached notice for the Administrative Law Judge's notice.

IT IS HEREBY FURTHER ORDERED that the complaint be, and it hereby is, dismissed insofar as it alleges violations of the Act not found herein.

Dated, Washington, D.C.

John H. Fanning,	Member
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Howard Jenkins, Jr.,	Member
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Ralph E. Kennedy,	Member
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(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX
NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

We hereby Notify our employees that:

WE WILL NOT discharge or refuse to reinstate any of our employees for engaging in lawful, protected, concerted activity such as forming grievance committees or discussing working conditions among themselves, or acting as witnesses for other employees in disciplinary proceedings.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to form, join, or assist or be represented by any labor organization, to bargain collectively with representatives of their own choosing, or to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any of all such activities.

WE WILL offer Drucilla Cornell immediate and full reinstatement to her former job or, if that position no longer exists, to a substantially equivalent position, without prejudice to her seniority or other rights or privileges and WE WILL make her whole for any losses she may have suffered as a result of our unlawful action against her.

COLUMBIA UNIVERSITY

(Employer)

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 36th Floor, Federal Building, 26 Federal Plaza, New York, New York 10007, Telephone 212-264-0306.

* * * * *

DECISION

Statement of the Case

MORTON D. FRIEDMAN, Administrative Law Judge: This proceeding was heard on May 21, 22 and 23, 1974, at New York City on the complaint of the General Counsel issued April 4, 1974, which complaint was based upon a charge filed on February 15, 1974. The Complaint alleges, in substance, that the Respondent, Columbia University, violated Section 8(a)(1) of the Act in discharging two of its employees for engaging in protected concerted activity. The answer, while admitting certain allegations of the complaint, denies the commission of any unfair labor practices. At the close of the hearing, the parties waived oral argument but thereafter submitted briefs in support of their respective positions.

Upon the entire record, and from my observation of the demeanor of the witnesses, and with due consideration given to the contentions advanced by the parties in their briefs, I make the following:

Findings of Fact

I. The Business of the Respondent

The Respondent, a private university, maintains its principal office and facilities in the City of New York where it is engaged in providing educational and related services. During the year immediately

[2]

preceding the issuance of the complaint herein, a representative period, the Respondent derived gross revenue in excess of \$1,000,000. In addition, the Respondent, during the same period, purchased goods and materials of a value in excess of \$50,000, of which goods and materials of a value in excess of \$50,000 were transported and delivered to it directly from states of the United States other than the State of New York

It is admitted, and I find, that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. The Labor Organization

It is admitted, and I find, that District 65, Distributive Workers of America, the Charging Party herein, is a labor organization within the meaning of Section 2(5) of the Act.¹

III. The Unfair Labor Practices

A. Introduction and Issues

The central switchboard of the Respondent University is located in room 114 of a library on the Respondent's campus. In charge of the switchboard operations at the time of the event herein was Onnie Lawton, the chief telephone operator. Drucilla Cornell and Muriel Hirschfeld were telephone operators, among a number of other operators, at the switchboards supervised by Lawton. Shortly after the beginning of the Year 1974, for reasons set forth hereinafter, Cornell and Hirschfeld became dissatisfied with certain working conditions in room 114 and took actions which, according to the complaint and the contentions of the General Counsel, were concerted and protected in nature and led to their discharges by Lawton. The Respondent, on the other hand, denying the commission of unfair labor practices, contends that the employees were not engaged in protected concerted activity: that Hirschfeld, a probationary employee of recent hire, was discharged because she did not perform properly during her probationary period, and Drucilla Cornell was discharged because she interfered with the operations of the telephone room and refused to follow orders given by Lawton. Thus, the issues framed by the pleadings and the contentions of the parties are:

¹ Although the District 65 filed the charge herein, it did so on behalf of the two dischargees who were not in any way involved with District 65 during the events which led to this proceeding and, therefore, the only connection District 65 has with this case is the filing of the charge.

1. Whether employee Muriel Hirschfeld was discharged for engaging in the protected concerted activity of attempting, with others, to form a grievance committee?

[3]

2. Whether employee Drucilla Cornell was unlawfully discharged, then suspended and offered a conditional reinstatement in violation of Section 8(a)(1) because of her activities in attempting to form a grievance committee and (b) in attempting to assist Muriel Hirschfeld as a witness when Hirschfeld was discharged.

B. The Facts

1. The events before January 21, 1974

Both Muriel Hirschfeld and Drucilla Cornell were employed as telephone operators in the telephone room in 1973, Cornell on either November 12 or 19 and Hirschfeld on December 13. Both were hired by Lawton, chief telephone operator and supervisor of the telephone operator room.

Lawton, who for many years had been a telephone operator and approximately 2 years prior to the events herein, had been made assistant supervisor of the operators, had been promoted to chief telephone operator on October 26, 1973. Therefore, her experience as chief operator was of very short duration at the time Hirschfeld and Cornell were employed.

Under University policy, employees who are newly hired as telephone operators, are given a 2-week training program and a 60 day probation period. Admittedly, Hirschfeld was informed of this at the time she was hired.

Additionally, approximately at the time that Hirschfeld was hired, Lawton prepared and distributed to all full time telephone operators, among them Hirschfeld and Cornell, a list of procedures to be followed in answering and transferring the calls coming into their switchboard consoles.

From December 21, 1973, through January 2, 1974, the University was on vacation and, therefore, the telephone operators who had worked for the University for the required length of time were on vacation also. This included Lawton and Roxanna Brandao, the assistant chief telephone operator, who, at the time the vacation began had been training Hirschfeld for a period of approximately 1½ weeks. According to Hirschfeld, whose testimony in this respect is uncontroverted and, therefore, credited, shortly after she was hired she made a mistake by reaching the wrong number and apologized to Lawton for this error. Lawton replied that Hirschfeld was doing very well and that this matter was all right. When the Christmas vacation came, as noted above, all of the full time operators went on vacation with the exception of Cornell and Hirschfeld who were the newest operators in the office, and not entitled to the vacation period. When she left to go on vacation, Lawton, according to Hirschfeld's uncontroverted testimony, told Cornell and Hirschfeld that she knew she was leaving the office "in good hands."

[4]

Upon Lawton's return, according to Hirschfeld's uncontroverted and credited testimony, Lawton and Hirschfeld had a conversation in which Lawton told Hirschfeld that she could use another operator because eventually Lawton was going to transfer Cornell to another shift. When Hirschfeld suggested that her sister was available, Lawton expressed her desire to hire Hirschfeld's sister providing the sister's last name was different from Hirschfeld's and providing that it was not revealed to Lawton's superiors, James McGrady, assistant purchasing agent and a Mr. Nelson, chief purchasing agent. Thus, it is apparent that up until the early part of January, at least, the performance of both Cornell and Hirschfeld must have been considered by Lawton to be satisfactory. It should be noted, at this juncture, that Cornell had been ill from time to time from the date of her hire, but this, evidently was not the basis of any Respondent's actions taken with regard to her.

However, despite the seemingly happy and peaceful atmosphere in the telephone room, as early as some time in December, there were expressions of dissatisfaction among the operators with regard to the manner in which Lawton was supervising the operation.² Additionally, Cornell testified as to some hearsay evidence to the effect that, at a meeting of part time employees, Lawton expressed concern that there were plots against her among the telephone operators. However, according to Cornell, this was told to her by Christopher Wells, a part time operator. Wells was not called as a witness. Accordingly, I accept this testimony only because its content conforms to other events hereinafter related.

Thus matters stood when, according to Respondent's witnesses, about 2 weeks before the discharge of Cornell and Hirschfeld on January 23, some of the telephone operators began to complain about the actions and manners of employee Hirschfeld who was then still on probation. According to Betsy Reed, a witness called by the General Counsel, but who Respondent's counsel was permitted to make his own witness, she complained about Hirschfeld approximately 2 weeks before the discharge. According to Reed she told Lawton at that time that she felt that Hirschfeld did not fit in with the other girls in the office. Lawton replied that others had made the same comment. Lawton further told Reed that she would have to make some decision soon with regard to Hirschfeld. Lawton testified that at about the time of which Reed spoke she received similar comments from other individuals and on January 11 made up her mind to terminate Hirschfeld before the end of her probationary period.

²From the uncontroverted testimony of Barbara Joyce, a witness called by the General Counsel but who was also made a witness for Respondent on motion of Respondent's counsel on her cross-examination. This testimony was also confirmed, to a certain extent, by the testimony of part time operators Morris Dunlop and George Ford, both witnesses called by the Respondent.

According to Lawton, inasmuch as she was rather new in the position of chief telephone operator and had never discharged anyone before she phoned McGrady, her immediate superior, and told him of her desire to discharge Hirschfeld. She told McGrady that she was dissatisfied with Hirschfeld, that Hirschfeld did not fit in with the other operators and refused to take orders from supervision. McGrady, in testifying, added that at that time Lawton also told him that some of the other operators had come to Lawton and told her that Hirschfeld did not seem to fit in with the group. Both Lawton and McGrady testified that McGrady then told Lawton, in affect, that she was the head of the telephone room and that it was up to her to make the decision if she desire to discharge Hirschfeld but that Lawton had better consult the personnel department of the University to best ascertain how to go about the discharge.

Thereafter, according to Lawton, she immediately called the personnel department and spoke to Andrea Tye Safran, a personnel associate. According to the testimony of both Lawton and Safran, Lawton informed Safran of her desire to discharge Hirschfeld. Safran informed Lawton that no notice need be given Hirschfeld because university policy did not require notice to be given to an individual who was still on probation. Safran also indicated that it was best to terminate the individual at the end of a pay period to make it easier (presumably for the payroll or accounting department).

Inasmuch as the foregoing testimony concerned conversations which occurred out of the presence of either of the alleged discriminatees or the General Counsel's other witnesses, were acceptance of the matters related dependent solely upon the testimony of Lawton and McGrady, I would hesitate to conclude these conversations actually occurred. However, I was very much impressed with Safran, who, as an employee of the personnel department, was sufficiently isolated from the activities of the phone room to make her a

more objective witness than either of the other two. Moreover, my observation of the manner in which Safran testified and her demeanor convinces me that she was a forthright witness who, despite her position as an employee of the Respondent, could be relied upon to relate the events as they actually occurred.

Additionally, I was also convinced that Betsy Reed was a reliable witness. As hereinafter related, Reed, called by the General Counsel, gave testimony which could be considered harmful to the Respondent's defense that the employees were discharged for cause. Nevertheless, she also testified as to her conversation with Lawton related above, with regard to Hirschfeld's failure to fit in. Reed, although an employee of the Respondent directly under the supervision of Lawton, nevertheless did not hesitate to testify to matter which would favor the General Counsel's case, as against the Respondent.

[6]

Therefore, in view of all the foregoing, I find and conclude that Lawton did consider and did receive instructions for the discharging of Hirschfeld almost 2 weeks before the events occurred herein upon which the General Counsel relies, and which are hereinafter related, to base his contention that Hirschfeld and Cornell were discharged discriminatorily.

2. The events beginning January 21, 1974

As heretofore noted, shortly after she became supervisor of the telephone room, Lawton issued a set of instructions or procedures to be followed in answering the telephones. According to Cornell and Hirschfeld, both of whom worked on the 12 noon to 8 p.m., shift, when they arrived at work on January 21, they were asked by Mrs. Lawton to come to her office. She informed them that they were not in any trouble but that she just wanted to inform them about changes in telephone answering procedures. The details of these alleged changes are not particularly relevant or pertinent to the decision herein, but, according to both of the alleged discriminatees, they were rather upset by reason of the changes and by reason of the fact, also, that the changes were not clear and

the two employees could not quite understand what Lawton meant by the changes.

According to Cornell, as supported by the testimony of Hirschfeld, about 20 minutes after the conversation, Lawton left for lunch and the operators in the telephone room began a discussion with regard to the so-called changes in policy. Cornell began the discussion with the statement that she did not understand the instructions with regard to the changes. Hirschfeld agreed she did not either. An employee named "Gwen" suggested that Lawton did not run the office on any practical basis but purely on the basis of Lawton's moods. Barbara Joyce added that she was a grown woman and had been an operator long enough to know her job and did not need to be told when to say "please" and "thank you." Cornell stated that these grievances should be brought to Lawton's attention and, according to Cornell's testimony, someone stated that Cornell should be careful inasmuch as she had been ill and this could be used against her. According to Cornell the operators "pretty much" decided that Cornell would speak to Lawton. Hirschfeld made it clear that she would back up Cornell in anything that Cornell told Lawton.

According to Cornell, among the items that rankled the employees was the fact that in order to be permitted to go to the restroom, an operator had to raise her hand and ask "May I please go to the bathroom." Cornell also testified that she told the others she had been on a grievance committee with a group of friends when she worked in California for a bank; that two of the women who had been on the committee were discharged and then reinstated and the committee had been recognized by the bank. The conversation terminated just before Lawton's return between 1:15 and 1:30 p.m.

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At about 3 p.m., on that day, January 21, Cornell and Hirschfeld went to lunch. During lunch they again discussed what had occurred earlier in the day and agreed that a grievance procedure would be the best way to move

ahead. According to Cornell, they agreed that if they had reason to talk to Lawton about grievances, whomever went first would be supported by the other one and that they would go in individually and try to give Lawton the benefit of the doubt. Cornell agreed that she would go in first. They further agreed that in the event that either one of the two would be called in for what seemed to be a "threatening situation" they would follow the Respondent's grievance procedure which would permit one of them to act as the other's witness.

Later that day, after Hirschfeld and Cornell had returned from lunch, Lawton instructed Hirschfeld to change consoles. According to Hirschfeld, she was not feeling well at the time and when she got up to change consoles she threw a piece of paper in the waste paper basket and proceeded into the locker room to obtain an aspirin. With that, Lawton told Hirschfeld to "stop sashaying around," and that if Hirschfeld had to sashay around she should do it when Mrs. Lawton was not present. According to both Hirschfeld and Cornell, Hirschfeld then informed Cornell that she was going to speak to Mrs. Lawton about the grievances of the operators. Cornell stated that she would "back Hirschfeld up."

After receiving permission to talk to Lawton, Hirschfeld spoke to Lawton and told her that she felt that the inconsistency of policy was unfair to Hirschfeld and the other operators; that she could not see why they had to use the specific phrase "May we please be excused to go to the bathroom." She further informed Lawton that she felt it was petty and was not necessary; that they were all adults. Lawton answered, "That is your opinion if you don't like it, you can quit, and I am the boss in 114." Lawton then informed Hirschfeld that she was leaving for the day and that they could continue the discussion on the next day.

After Lawton left for the day, the employees who remained engaged in a discussion. The participants in this conversation, according to Cornell and

Hirschfeld, were the two and Christopher Wells, Frank Dobbins and Morris Dunlop. These latter employees were part time night operators. According to both Hirschfeld and Cornell, they discussed the events of the day and the new procedure policies which were being introduced by Lawton as described by Lawton to Hirschfeld and Cornell earlier in the day. According to Hirschfeld and Cornell, Hirschfeld told the others that she and Cornell felt there should be a grievance procedure so that the unfair rules could be changed. According to Cornell, some of the employees expressed fear of forming a grievance procedure, although they were in sympathy with it. Thereupon, Hirschfeld and Cornell stated that they would take the initiative and hold themselves responsible for any actions. They therefore decided that the best way to proceed would be to draw up a notice stating how workers

[8]

should be organized. Specifically, Cornell told the other employees about the right of workers to organize under the National Labor Relations Act. After Hirschfeld stated that the notice should in no way be degrading to Lawton, "they" decided to draw up a statement with continuous suggestions "from the other operators who were there at the time." After the notice was drafted and reduced to writing by Cornell, Hirschfeld posted it on the bulletin board. According to both of these employees, the bulletin board was used not only for official University notices and other matters, but also by people who had placed Christmas cards on the board from time to time. Also, at the time of the posting of the notice there was a cartoon described as a "Ching Chow" cartoon, on the bulletin board.

The said notice read as follows:

Workers do have rights. We have the right to bring our grievances to the attention of our employer. We have the right to organize to change our working conditions. We do not have to sit back passively and accept rules and regulations we think are unfair. Any group of us, chosen by

election or directly, can represent the rest of the employees in designated bargaining unit, equally as much so as an established union. The NLRB will protect any group of us equally as much as it will a union. There have been several precedent-setting cases in the last two years.

On Tuesday, January 22 Cornell and Hirschfeld met together at a restaurant before reporting for work at noon. They discussed the events of the previous day and the decision to post the notice with regard to the grievance committee. Once again they pledged each other that if one should get into trouble the other would go to her assistance as a witness. They decided between them that a good way to proceed with the matter of the grievance was to ask Lawton to hold a meeting with the other operators or, at the very least, to speak to the other operators individually.

At 12 noon, or a few minutes earlier, the two reported for work. Cornell testified that they looked at the bulletin board and the notice they had put up the night before was not there. Cornell testified that after saying "hello" to Lawton, she told the latter that she and Hirschfeld had posted the notice the night before and that removing the notice was illegal because there had been no prior restriction to posting notices on the bulletin board. According to Cornell, Lawton answered that so far as she knew Cornell was wrong in posting the notice and asked why Cornell had not come to speak to Lawton individually. Cornell answered they had already tried that. Hirschfeld had come to speak to Lawton the night before on behalf of themselves and the other operators and having tried that route and been unsuccessful they now wanted a grievance committee. Cornell further testified that she told Lawton that they would like her to have a meeting with the operators. Lawton stated that she wanted to speak to the

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operators individually. Cornell assented to that. Then Lawton told Cornell that Lawton was aware "of a plot" against her and that she did not trust

anybody who was working for her. Additionally, Cornell testified that she told Lawton that this was not so; that Hirschfeld and Cornell were honest and told her when they disagreed with her. Cornell further told Lawton that they were doing this as workers for the benefit of the entire office, which would mean better service for the customers. Then, after further discussion, Cornell informed Lawton of the National Labor Relations Act. Lawton answered that if there was such a law, Cornell should have a written document with her. Upon which, according to Cornell, Cornell replied that she would give Lawton a written document the next day and told Lawton that she would go to a library to get an adequate and easy summation of the laws so that Lawton could see them. Lawton, thereupon, promised that she would call in the other operators and give them an opportunity to express their grievances. Cornell said that she would appreciate that and asked Lawton if the latter would continue her conversation begun the evening before with Hirschfeld. Lawton answered, according to Cornell, that Lawton had no intention continuing the conversation inasmuch as she did not like Hirschfeld's attitude. The conversation ended with Cornell saying that it would be better for everybody in the office if they knew what they could do and could not do legally.

Further, according to Hirschfeld and Cornell, after Lawton left at 5 p.m., on that day, Tuesday January 22, a further conversation ensued between the two and the other night part time operators who, according to Cornell and Hirschfeld, were present the night before. This conversation was much in the same vein as the conversation of the previous evening. According to Cornell, the other operators again warned that there was a chance of Hirschfeld and Cornell being fired. They further discussed the reaction to the notice. That night, before they left, Hirschfeld posted a further notice on the bulletin board, which, according to Hirschfeld's testimony, was put up

merely as a joke because Hirschfeld thought it was humorous. It read "Cows may come and cows may go, but the bull around this place goes on forever!!"

The next morning, January 23, Hirschfeld and Cornell met again at a nearby restaurant and together pledged to each other that if either were to get into trouble because of their activity the other would act as a witness pursuant to the policy of the Respondent. They further decided to obtain a copy or a summation of the National Labor Relations Act from the library to show to Lawton. Accordingly, before they reported for work at 12 noon, they proceeded to the library where they were able to obtain a book containing a summation of the Act.

After securing the book from the library, Cornell and Hirschfeld proceeded to the locker room outside room 114. While they were there, at about 10 minutes until noon, Lawton told Hirschfeld that she wanted

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to speak to the latter in Lawton's office. After a short discussion with Cornell, Hirschfeld proceeded, according to both Cornell and Hirschfeld, into Lawton's office with Hirschfeld carrying the book the two obtained from the library. No one was present in Lawton's office except Hirschfeld and Lawton but the door to the outer office was left open. According to Hirschfeld when she walked in she laid the book on Lawton's desk. With that, Lawton handed Hirschfeld a check and told Hirschfeld that she was fired and also told Hirschfeld that the Respondent owed her 1 day's pay for Martin Luther King's Day, and "H" day, which in the vernacular of the University meant a day which an employee could either take off or be paid double for the day's work. Hirschfeld, according to the latter, told Lawton that she was not accepting the firing and she felt it was unfair and wanted to see someone with more authority, preferably McGrady. With that Lawton told Hirschfeld that if she did not "get the hell" out of Lawton's office, she was "goir, lay her hands on her and hurt her."

According to Cornell, she had not begun work and had just left the locker room and was coming into the outer office to put on her headphone and plug it into the console when she heard shouting from Lawton's office. She heard Lawton say to Hirschfeld, "Yes, you're getting out of my office, or else I'll have to lay my hands on you." With this, Cornell decided it was time to go in as Hirschfeld's witness as they had agreed beforehand. With that Cornell walked into the office and said to Mrs. Lawton, "Under university policy --." Lawton interrupted her and said to Cornell, "Is your name Muriel?" to which Cornell answered "no," and then further stated "Under university policy I have a right to be here as a witness, to act as Muriel's witness." Again, according to Cornell, Lawton told Cornell to get out. When Cornell, instead, went over to a chair and sat down, Lawton told Cornell "Get out or I'll knock your teeth down your throat." Cornell insisted that she would not get out and that she was there to act a Hirschfeld's witness. With that Lawton handed Cornell her check and said, "You're fired. You were next anyway."

When the two discharged employees adamantly refused to get out of the room, Lawton called security. Finally, after some discussion with security guards, the head of security came to the room. After the two discharges explained to him what had happened, he refused to remove them, but, instead, told Lawton to call McGrady. This Lawton did and McGrady came to the room where the girls explained to him what had happened. McGrady then told them that there was nothing he could do. However, he did change Cornell's discharge to a suspension. Thereafter, the two discharges asked for a hearing at the personnel department. They did have a hearing within a day or so. After the hearing, on Friday, January 15, McGrady told Cornell over the phone that Hirschfeld's discharge was upheld but, however, Cornell's suspension was limited to 3 days. He read to her a

letter which Cornell later received personally, which read as follows:

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This letter will confirm the verbal suspension given to you on January 23, 1974. This suspension was necessitated because of your uncalled for interference with the normal conduct of business by the chief operator and your refusal to desist with this interference upon order. It is so by the chief operator, your supervisor.

You are suspended from your position as telephone operator at Columbia University as of January 23, 1974. This suspension is for a period of 3 working days. You will be expected back at your work January 28, 1974.

You are, furthermore, warned that any repetition of the aforementioned conduct will result in the termination of your employment at Columbia University.

Mr. McGrady

Cornell received this letter on the following Tuesday. On the day after, she called McGrady and told the latter that she could not accept the conditions under which they gave her her job back. She asked for unconditional reinstatement. McGrady answered that he could not do anything about the letter, that it was out of his hands at that point, and that he was sorry things worked out the way they did. Cornell told him that she would file a charge with the Board on behalf of Hirschfeld and herself.

A short time thereafter McGrady again spoke to Cornell on the phone and read to her a second letter stating that since she had not returned to work on the date stated in the first letter it was considered that she had resigned. This was the last communication she had between herself and any officer or agent of Columbia University.

3. The Respondent's defense

Upon the above testimony, General Counsel contends that the discharges of both employees were discriminatory. Respondent, however, contends that

the discharges were proper and for cause, and relies, to support these contentions, upon testimony which follows.

Of course, Respondent cites in the first place the testimony which I have credited heretofore to the effect that approximately 2 weeks before the actual discharge, Lawton had determined to take some action toward terminating Hirschfeld. With regard to January 21, the first day upon which the so-called activity of Hirschfeld and Cornell occurred, Lawton testified that she had not informed either Cornell or Hirschfeld that there had been any changes in procedure or policies with regard to the manner in which the telephones were to be answered. However, Lawton

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did not deny that she had a conversation at approximately noon on January 21 with Hirschfeld and with Cornell. On the other hand, the only Respondent witness to testify as to whether there were any special instructions or changes in procedures issued that day and who worked full time was Roxanna Brandao, assistant chief operator directly under Lawton. Brandao testified affirmatively that the rules which Lawton had given to all of the employees in the department soon after Lawton became supervisor were never changed to Brandao's knowledge and Brandao, being the assistant supervisor of the section, would have been the first to be informed of any such changes.

Additionally, Lawton testified that at about 4:45 p.m., on January 21, Hirschfeld asked to see Lawton and Lawton asked Hirschfeld to come into Lawton's office. Hirschfeld, according to Lawton, discussed with Lawton that Hirschfeld was not satisfied with the way Lawton was treating her and that Hirschfeld did not want to be told when to go to the ladies' room, "when to do this or when to do that." Lawton told Hirschfeld that the latter had to do these things as long as Lawton was in charge because it was always done that way. That was the rule that was in affect when

Lawton was an operator and Lawton never changed the rule. The reason for the rule was because the consoles could not be left unattended, someone had to be at that position all the time.

It should be noted in connection with Lawton's testimony with regard to this conversation, although her testimony was rather brief and did not go into detail about the matters which Hirschfeld allegedly complained, that Lawton significantly testified that Hirschfeld's complaints were always with regard to Hirschfeld herself; that her complaints were made in the singular and did not include other employees. Thus, Hirschfeld, according to Lawton, complained only for herself and not on behalf of any other employees.

In further testifying, Lawton stated that on the morning of Tuesday, January 22, when she arrived at work at about 8:45 a.m., her assistant, Roxanna Brandao, told Lawton that there was a notice on the bulletin board. Brandao took the notice down and brought it into the locker room where Lawton was then standing. Lawton took the notice into her office and read it. At that point, Lawton called McGrady to tell him that there was a notice posted on the bulletin board. She did not know who put the notice up nor did she question anyone as to who put up the notice. According to Lawton, the reason she called McGrady was that no one is supposed to use the bulletin board except for official University business.

McGrady in support of the foregoing testimony of Lawton, testified that when Lawton called him she said that she had found a notice on the bulletin board, that she did not know who had put it there but that it said something about the rights of employees. She wanted

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to know what McGrady thought about it. McGrady told Lawton to file it away and make a copy of it and bring it over to him, which she did. There was no discussion as to any action to be taken.

The foregoing, according to both McGrady and Lawton, was the entire discussion that either of them had with regard to the notice regarding the forming of a grievance committee.

Lawton further testified that on that morning of January 22, after Cornell and Hirschfeld reported for work, Cornell asked Lawton to speak with her. Lawton at that time was sitting at a console. As a result of Cornell's request, Lawton closed the console down and went into her office with Cornell following her. Cornell stated that she wanted to tell Lawton that Cornell had put up the notice the night before. Cornell, according to Lawton, further stated that she did not like the way that Lawton ran the office and thought that the latter should change it. Lawton told Cornell that Lawton was the supervisor and that was the reason she was there; to run the office to the best of her ability. According to Lawton, that was all there was to the conversation which was very short. It should be noted that here again Lawton placed the conversation of Cornell in the singular and testified that Cornell spoke for herself alone and did not speak for any other employees.

There is also a further dissimilarity between Lawton's testimony and Cornell's testimony with regard to that meeting. As is noted above, Cornell testified in some length with regard to her telling Lawton about the National Labor Relations Act and that the employees had a right to organize and have a grievance committee. It should also be noted that, contrary to the testimony of Cornell, Lawton stated that Cornell told her that it was Cornell who put up the notice. Lawton did not testify that anyone else was mentioned beside Cornell regarding the posting of the notice.

The next matter upon which Lawton testified was that on the morning of January 23, when she arrived at work, she was told there was another notice posted on the board. Lawton did not see it but was given it by

Brandao who took it down and give it to Lawton in the locker room. This was the notice with regard to the "bull goes on forever," posted by Hirschfeld. After Lawton read the notice she again called McGrady and informed him about the content of the notice. Again McGrady asked her to bring him a copy which she did later on the same day. There was no discussion as to any action to be taken.

In support of this testimony, McGrady testified that when Lawton called him on January 23 with regard to the "bull" notice, she told him that this was a little derogatory, apparently concerning her. McGrady testified that he told her to file that one away and send him a copy. McGrady further testified that he did not tell Lawton to find out who made the notice although he testified he believed that he asked her if she knew who put it up and Lawton answered in the negative.

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On that morning, January 23, during the morning, Lawton dictated a letter to her secretary, Betsy Reed, which letter was addressed to Henry K. Nelson, the chief purchasing agent, stating "This is to inform you that I have terminated Muriel Hirschfeld as of January 23, 1974, due to incapability in the office. We owe her one day's pay for Dr. Martin Luther King H Day."

However, according to Reed, on the day before, Tuesday, January 22, Lawton told Reed that she was going to terminate Hirschfeld. Lawton also told Reed, according to Reed's testimony, that at that time on January 22, Lawton told Reed that if Cornell did not watch her step she would be next. This was probably after Cornell had told Lawton that Cornell had posted the notice with regard to the grievance committee.

According to Lawton, on January 23, just before noon, when Hirschfeld and Cornell came into the locker room to report for work, Lawton asked Hirschfeld to come to her office. Lawton testified that she told Hirschfeld

that the latter was being terminated and gave her her check and explained to her that the University owed her the "H" day pay for Dr. Martin Luther King's birthday. This was because Hirschfeld had worked on that day and was entitled to an extra day's pay.

Further testifying, Lawton stated that Hirschfeld told her that Lawton had no right to terminate Hirschfeld. Lawton stated that at this point Hirschfeld became loud and shouted that she wanted to talk to McGrady. Lawton said that that was fine. At that moment, according to Lawton, Cornell came into the office and said that Lawton had no right to "do this" and that if Muriel Hirschfeld was discharged, Cornell was going to leave also. Lawton answered that if that's the way Cornell felt about it she was free to go. She then told Cornell to return to her console and go to work. Actually, according to Lawton, Cornell had never put her earset in and had not yet started to work. However, Cornell refused to go back to her desk and instead sat down to listen to what Lawton had to say to Hirschfeld. Lawton repeatedly asked Cornell to leave and the latter refused repeatedly. Thereupon, according to Lawton, she called security and McGrady. In testifying Lawton denied that she raised her voice or that she ever threatened either Hirschfeld or Cornell with bodily harm, or for that matter, ever threatened any employee in this manner.

Lawton further testified that her conversation with Hirschfeld on January 23 lasted no more than 5 minutes. Lawton further denied, in testifying, that Hirschfeld placed any object upon her desk when she came into Lawton's room on that day. Lawton testified that Hirschfeld was carrying no object other than her purse when Hirschfeld came into the office. Thus, Lawton denied that Hirschfeld carried the so-called labor law book referred to in the testimony of Hirschfeld and Cornell.

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Lawton did not testify with regard to the events that ensued after

Lawton called security and McGrady. Apparently, this was because the testimony of Cornell and Hirschfeld with regard to what took place thereafter was not in conflict with what Lawton would have testified to with regard to these events.

With regard to the exit interview on January 23 concerning which it is alleged that the Respondent discriminatorily discharged Hirschfeld and Cornell, the Respondent called Roxanna Brandao and Marian Lloyd. Brandao, assistant supervisor, did not add anything to what has already been recited above by Lawton. But, she emphatically denied she had ever seen or heard Lawton physically threaten anyone, nor has she ever seen Lawton make any threatening gestures toward any employee. However, on cross-examination, Brandao did admit that sometime between December 15 and January 23 there were discussions about working conditions among the telephone operators. These discussions occurred at a time when she was only an operator and was interested in a union. She admitted that Cornell did speak to her about a union before Brandao became a supervisor.

Marian Lloyd, a full time operator, denied that there was any kind of conversation between herself and Cornell or Hirschfeld on January 21 concerning grievances. Although Lloyd admitted, on cross-examination, that her lunch period was the same as that of Lawton, from 12:30 to 1:30 p.m., which would have meant that Lloyd could not have even been present at all times during the so-called grievance discussions of January 21 and 22, Cornell testified that Lloyd was present at that time and specifically stated to Cornell that the latter had better be careful in what she said inasmuch as Cornell had been ill and that this could possibly be used against Cornell. It should be noted, at this point, that this foregoing is among the many imponderables presented by the conflicting testimony of the witnesses in this case.

Significant, also, is the testimony of Respondent witnesses George Ford

and Morris Dunlop, both night time operators and part time operators who testified that they could not remember having any discussion with either Cornell or Hirschfeld on January 22. They both further testified that on January 21 neither of them were working. This is borne out by Respondent's records, introduced into evidence, which required part time operators to sign their names on an assignment schedule along side the dates upon which they were scheduled to work. This schedule, for the week beginning January 21, was introduced into evidence and showed that neither Dunlop nor Ford worked on the evening of January 21 and, therefore, could not have engaged in a discussion of the formation of a grievance committee as testified by Cornell and by Hirschfeld. Dunlop, however, admitted that at some time during this period there was a discussion concerning a union. He further stated that on the evening of January 22 he heard that someone put up a notice on the bulletin board that Lawton did not like. He further remembered discussing with Cornell and Hirschfeld the fact that they were probationary employees and that they should be careful about what they were doing because they were new. He might have told them this, according to his testimony, on Tuesday January 22, the night he admittedly worked.

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With regard to the ultimate conclusion to uphold Cornell's suspension and her eventual discharge, McGrady testified that one of the reasons Cornell was suspended and ultimately discharged was because she left her switchboard unattended. However, in contrast to this testimony, as recited above, Lawton testified that Cornell had not as yet commenced work when she came into Lawton's room to witness Hirschfeld's discharge. Accordingly, it is very probable, that Cornell did not leave her switchboard unattended inasmuch as she had not plugged in her earset and had not taken her place at the switchboard to start work. Therefore, her switchboard was not turned

on to receive calls. This conclusion is bolstered by the fact that Lawton testified that the entire conversation with Hirschfeld and Cornell, up until the time Cornell said that she would quit if Hirschfeld was fired, took no more than a few minutes. Inasmuch as the two young ladies reported to work that morning some time prior to noon, it is very possible that the entire conversation was completed before it was time for Cornell to actually commence work. This conclusion, of course, does not apply to the period during which Cornell refused repeatedly to go to her switchboard.

It should further be noted, in connection with the discharge of Cornell and Hirschfeld that the payday of the University is every other Wednesday and that January 23 was a Wednesday and payday. This would account for the fact that the checks of each were ready on that day.

C. Discussion, Analysis and Conclusions

As is usual in most cases where there is conflicting testimony between witnesses for the General Counsel and witnesses for a respondent, counsel in the instant case urge that the witnesses of their opponent cannot be believed and that only their own witnesses are telling the whole truth. Indeed, in the case at bar, in one respect counsel are correct. The witnesses for both the General Counsel and the Respondent gave testimony which presents ambiguities, imponderables, half truths and exaggerations. Accordingly, the contention of counsel for the General Counsel and counsel for the Respondent that only their particular witnesses can be relied on completely must be rejected. Accordingly, in many instances, as hereinafter set forth, I credit a witness' testimony in part and in other respects I do not credit a witness' testimony.³

³ To the extent that I credit a witness only in part, I do so upon the evidentiary rule that it is not uncommon "to believe some and not all of a witness' testimony." *N.L.R.B. v. Universal Camera Corp.*, 179 F.2d 749, 754 (C.A. 2).

As noted above, I have concluded, in the recital of the events of this case, and the evidence thereof, that some time before January 21, 1974, Lawton had considered that at some time in the future she would discharge Hirschfeld. However, I conclude, from an analysis of the testimony of McGrady, Safran and Lawton with regard to this decision, that at the time Lawton spoke to both McGrady and Safran, Lawton had not decided upon the date upon which Hirschfeld was to be separated. This is clear from the testimony, especially of McGrady and Safran, neither of whom testified that Lawton gave them a definite date for the separation. However, unlike the General Counsel, I cannot conclude that the Respondent's defense that Lawton had decided to terminate Hirschfeld was an afterthought concocted after the fact of discharge. This would have required the connivance and the agreement on the part of all of the people involved, including Safran, McGrady, Lawton and others, to create a fiction out of the whole cloth. I have already concluded that Safran was a most forthright witness and, accordingly, I accept as a fact that the determination to terminate Hirschfeld had been made before any of the decisive events herein occurred.

However, because I have also concluded that no date for the separation of Hirschfeld was made at the time that the decision to separate her was made by Lawton, I must consider why Hirschfeld was separated on January 23 only 2 days after Cornell and Hirschfeld first discussed the possibility of the formation of a grievance committee with other of Respondent's employees.

As noted above, the testimony of both Hirschfeld and Cornell with regard to the alleged change in policy and procedures for answering the phone, relates that they were called in as they reported for work at 12 noon on January 21 and were told of these changes by Lawton in her office. Lawton emphatically denied that she had told them of these changes and that, in fact, no changes had ever been made. Roxanna Brandao, Lawton's immediate assistant, denied that any

changes were made and stated that she would have been the first one to know about them inasmuch as she was the assistant supervisor of the office. Additionally, aside from Cornell and Hirschfeld, no witness presented by the General Counsel testified that they were told that there were any changes given to them by Lawton at that particular time. In fact, none of them testified that any changes were ever given them with regard to the written policies and procedures for answering the telephone distributed soon after Lawton became chief operator. However, Lawton did not deny that there was a conversation on January 21. Additionally, although Cornell and Hirschfeld testified that it was these changes that they did not understand, and which they resented, which brought about the discussion at approximately 12:30 p.m., on January 21, strangely, none of the employees who participated in that discussion including Barbara Joyce, a witness for the General Counsel, testified that either Cornell or Hirschfeld mentioned the change of rules during the discussion. Although, whether the changes of policy were actually made by Lawton on January 21 is immaterial for the purposes of disposing of the issue of whether the employees discussed the formation of a grievance committee on January 21, or whether Hirschfeld and Cornell were engaged in protected concerted activity

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on that day and the following days, it is nevertheless vital to the resolution of credibility of Lawton's testimony as contrasted with the testimony of Hirschfeld and Cornell. If only Hirschfeld had testified to this matter, I would have great difficulty in deciding whether her testimony was more credible in this respect than the testimony of Lawton. However, Lawton's main support in this respect came from the testimony of Brandao, who admittedly had just recently been appointed assistant supervisor of the office, who was a friend of Lawton's and whose job as a supervisor, not protected

by the Act, could have been placed in jeopardy by her testimony. On the other hand, Cornell, who, although somewhat militant and self-assertive, in her testimony recited facts clearly, emphatically and in great detail. By contrast, in many respects the testimony of Lawton was somewhat vague, and where more precise, was frequently brought out through leading questions on the part of Respondent's counsel. Accordingly, upon my observation of these witnesses, and although I believe that Cornell tended to exaggerate situations somewhat, I conclude that her testimony with regard to what brought about the discussions between the employees on January 21 and 22 constituted a reliable recitation of the facts. Accordingly, I credit her version of the conversation between Lawton, Hirschfeld and Cornell on January 21. Because Hirschfeld's testimony in this respect parallels that of Cornell, I also credit Hirschfeld in this respect.

Moreover, I find that because of Cornell's general credibility, her recitation of other facts with regard to what occurred in meetings between herself and Lawton is more accurate than the testimony given by Lawton. In coming to this conclusion, I have fully considered Cornell's testimony that on the night of January 21 she and Hirschfeld discussed the formation of the grievance committee with night telephone operators Ford and Dunlop. Therefore, because I conclude that Ford and Dunlop were not present on that night, I further conclude that in this respect Cornell's testimony is not accurate. However, because her recitation of what occurred on the following night, when Ford and Dunlop were there, somewhat parallels the testimony of Ford and Dunlop, I find and conclude that this error regarding who were present during the night of January 21 does not render other testimony given by Cornell unreliable. Moreover, in the respects that Ford and Dunlop's testimony does not fully substantiate the testimony of Cornell and Hirschfeld with regard to whether the grievance committee was discussed on the night

of January 22, I conclude that the testimony of Cornell and Hirschfeld is more reliable for reasons which follow.

First, of course, was my observation of these witnesses on the witness stand and the impression I had of them. Ford, a part time telephone operator but a full time student at the University, is in school on a work-study program. This indicates that the job which he held as a part time operator and student depended completely upon the University's desire

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to retain him in that position. It further indicates that he needed this part time work to remain in school as a student. Moreover, his inability to recall any substantial amount of the events on the night of January 22, indicates that his recollection of what occurred that night in the telephone room was such as to render his testimony unreliable.

With regard to Dunlop, he held two jobs with the University: one at their athletic field during the day and the second as a part time operator at night. Also, he was not subpoenaed but appeared voluntarily to testify. Additionally, on cross-examination, although Dunlop testified that there was no discussion concerning the formation of a grievance committee on the night of January 22, he admitted that there was discussion about "a union." Moreover, when pressed on cross-examination, he remembered discussing with both Cornell and Hirschfeld the fact that they were probationary employees and he said they should be careful about what they were doing because they were new. He further admitted that he "might" have told them this on Tuesday, January 22. The question might well be asked, if they were not discussing the grievance committee on that night, why would Dunlop have warned Cornell and Hirschfeld that they were possibly subject to removal as probationary employees. Accordingly, I find and conclude that on both January 21 and January 22 at the noon hour, at times when Lawton was taking her

lunch hour, discussion took place among the operators, and especially by Hirschfeld and Cornell, concerning the formation of a grievance committee and that this discussion extended into the nights of January 21 and 22. Moreover, even though Dunlop and Ford were not working the night of January 21, and Cornell's recollection of who was working with her and with Hirschfeld that night might have been faulty, there had to be other operators working inasmuch as the consoles had to be manned. Therefore, I find and conclude that on both nights the formation of a grievance committee was discussed, and the notice with regard to grievances was posted on the night of January 21 after such discussion.

We come now to the events of the morning of January 22 and the decisions by Cornell and Hirschfeld to support each other with regard to what might happen to them by reason of their mutual activity in protesting the working conditions and in the discussion of the formation of a grievance committee and the posting of the notice the night before. Although these decisions by the two were made out of the sight and hearing of any representative of the Respondent, or any Respondent witness, because I have otherwise credited Cornell, I credit her testimony and, therefore, Hirschfeld's testimony in this respect.

Also, earlier in that day, Lawton admittedly called McGrady to ask him what to do about the grievance notice posted the night before. Although Lawton considered the matter important enough to call McGrady and, as a rather new supervisor who had never before been confronted with

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such a situation, must have been somewhat upset and concerned about the notice, she testified that the reason she called McGrady was that the bulletin board was not supposed to be used for anything but official university business. McGrady's testimony with regard to that telephone call is equally

difficult to believe. He testified, as noted above, that Lawton said she found the notice on the bulletin board that she did not know who put it there but it said something about the rights of employees. She wanted to know what McGrady thought about it. McGrady merely told her to file it away and make a copy and bring it over to him, which she did. Then, McGrady testified there was no discussion as to any action to be taken. I find it incredible that McGrady, as the immediate superior to Lawton, would not have been concerned about actions evidently taken by unknown employees to assert grievance rights, or to assert what they thought were their rights under the Act, without questioning Lawton as to the possible reasons for such activity on the part of the unknown employees. Accordingly, although I have credited McGrady and Lawton in some other respects, I find and conclude that McGrady and Lawton are not reliable witnesses where their testimony is not otherwise supported.

Perhaps one of the more crucial conflicts of testimony to be resolved concerns the meeting shortly after noon on January 22 between Lawton and Cornell in which Cornell admitted the posting of the notice. Cornell's description of the conversation, as noted above, was very detailed whereas Lawton's was very short. However, for the purpose of the decision in this proceeding, the critical item of difference between the testimony of the two was that Cornell testified she informed Lawton that Cornell and Hirschfeld had posted the notice the night before and that when Lawton asked Cornell why they had not come to her individually, Cornell answered that they had already tried that route, that Hirschfeld had come to speak to Lawton the night before in behalf of themselves and the other operators, and having tried that route and having been unsuccessful, they now wanted a grievance committee. Lawton, on the other hand, testified that Cornell told her that Lawton (singular) had posted the notice the previous night. Moreover, in Lawton's

testimony there was no mention of the discussion with regard to a grievance committee as was contained in Cornell's testimony. I conclude that Cornell's version of the conversation is the more accurate and that Cornell did relate to Lawton at that time that both Cornell and Hirschfeld had posted the notice and had done so only after the requests by Hirschfeld the night before had been rejected by Lawton and that the employees now wanted a grievance committee. I also find uncontradicted by Lawton, the testimony of Cornell relating to that conversation to the effect that she told Lawton about the National Labor Relations Act; that Cornell and Hirschfeld were doing this as workers for the benefit of the entire office and that with regard to the Act, Cornell promised Lawton written documentation of employees' rights under the Act on the next meeting that they would have.

Later that evening, as heretofore set forth, came the discussion between Lawton and Hirschfeld and the night employees. Although Dunlop and Ford both denied that there was a discussion about a grievance committee,

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I find Hirschfeld's and Cornell's testimony with regard to that evening's events as the more reliable for reasons herein before set forth. Significantly, also, Dunlop, at least, admitted in testifying that he heard that someone had put up a notice on the board, referring to the notice posted the night before, and that "Mrs. Lawton did not like it."

Later that night, before they left, Hirschfeld made up the notice that "the bull goes on forever," and posted it. The next morning, as heretofore set forth, both Hirschfeld and Cornell met at the restaurant, went to the library, obtained the book describing the National Labor Relations Act and reported to work at approximately 11:45. Again, although the conversations between Hirschfeld and Cornell regarding these matters took place outside the sight or hearing of any of the Respondent's officers, agents or witnesses, I

find that because I have credited Cornell and Hirschfeld in other matters regarding the events of the 3 critical days, I credit them with regard to what occurred before they reported for work in the operators' room on January 23.

Both the General Counsel and the Respondent admit that Hirschfeld and Cornell were discharged that day by Mrs. Lawton. I find, from the credited testimony of Hirschfeld and Cornell, that the events of those few minutes between the time that Lawton requested Hirschfeld to come into Lawton's office and the time that Hirschfeld and Cornell were discharged by Lawton occurred as related by the two discharges. Here again I resolve the conflict of testimony based upon not only my visual observance of the witnesses but also upon the fact that I have found Cornell to be a more reliable witness than Lawton. Thus, I find, that when Hirschfeld entered Lawton's office, pursuant to the agreements between Hirschfeld and Cornell, Hirschfeld carried with her the book containing the summation of the National Labor Relations Act. I further find that Lawton did tell Hirschfeld that she was discharging Hirschfeld for incompatibility of views. I find, also, when Hirschfeld refused to accept this discharge, an argument ensued in which both parties undoubtedly raised their voices. I further find and conclude that when Cornell heard the raised voices and the argument she entered the office and informed Lawton that she was there as a witness for Hirschfeld pursuant to the grievance procedure policy of the University. I further find that Lawton told Cornell that they did not need a witness and that the latter should remove herself from Lawton's office. I find further that when Cornell persisted and sat down and repeatedly refused to leave Lawton's office, Lawton discharged her.

What ensued thereafter is unimportant except as it relates to the reasons why the two employees were discharged.

As noted, the complaint alleges and the General Counsel contends that Hirschfeld and Cornell were engaged in protected concerted activity, that

Hirschfeld was discharged for engaging in this activity and that Cornell was discharged both for engaging in this activity and particularly for engaging in the protected concerted activity of seeking to act as a

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witness for Hirschfeld. Respondent, on the other hand, contends that in the first instance, Hirschfeld was discharged pursuant to the determination to take this action made by Lawton some 2 weeks before the actual discharge date. Respondent contends that, in any event, the discharged employees were not engaged in protected activity in that their activity was not concerted; that so far as the Respondent knew, each of these discharges were acting as individuals and not on behalf of any other employees or each other. Respondent argues further that Cornell was originally discharged for refusing to obey the orders of her superior, Lawton, who had instructed her to leave the office and tend to her telephone console and then reinstated her upon warning that she not misbehave again in such manner; that Cornell's activity on the morning of January 23 in coming into the room was not protected in any event. Finally, contends Respondent, the refusal of Cornell to return after her suspension expired was correctly interpreted by the Respondent as an abandonment by Cornell of her position and that, therefore, she was lawfully discharged.

I have above found that, indeed, Lawton did earlier consider the discharge of Hirschfeld as a probationary employee and did consult both McGrady and Safran with regard thereto. However, as noted above, I have also found that no particular date was set in advance for the desire on the part of Lawton to terminate Hirschfeld. In connection therewith, I further conclude that Lawton did not determine before January 22 that Hirschfeld was to be discharged on January 23. There are several factors which go into the formation of my conclusion. The first and most apparent is the fact that

although the Respondent, by Lawton, claims that the determination to discharge Hirschfeld at the end of the next pay period, was made following the discussion earlier in the month between McGrady and Lawton and Safran and Lawton, nevertheless, the check given to Hirschfeld by Lawton on January 23 was in the amount that would normally have been given to Hirschfeld at the end of any pay period and that Wednesday, January 23 was a regular scheduled payday. It would seem to follow that had Lawton determined 2 weeks in advance to discharge Hirschfeld on January 23, Lawton would have notified the payroll department, or whatever branch of the University made up the payroll, to make out Hirschfeld's final check to include payment for the extra day's pay to which Hirschfeld became entitled for working on Dr. Martin Luther King's birthday. Additionally, although Lawton's clerk-typist, Betsy Reed, was in daily contact with Lawton and took care of all clerical matters in the office, Betsy Reed, was not told that Hirschfeld was to be terminated until January 22, also after Lawton saw and read and heard of the grievance notice posted on the bulletin board by Hirschfeld and by Cornell on the night of January 21. Moreover, it was not until January 23, 1974, the date of the discharge, that Lawton informed the head of her department, Henry K. Nelson, that she was going to discharge Hirschfeld on that day and that they would owe Hirschfeld 1 day's pay for Dr. Martin Luther King's day. It should also be noted, in connection therewith, that it was on January 22, in the same conversation in which Lawton informed Reed that Hirschfeld was to be discharged the following day, that Lawton also told Reed that if Cornell did not watch her step she would be next.

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Accordingly, for the foregoing reasons, I find and conclude that although Lawton may have entertained the idea of terminating Hirschfeld at some time after her discussions with McGrady and with Safran, no definite date for such

discharge was actually set before January 22. I further find that Lawton did not, in fact, finally determine to discharge Hirschfeld on January 23 until after Lawton became aware of the activities of Hirschfeld and Cornell with regard to grievances and other complaints of the employees. This determination is bolstered by the fact that not only did Cornell tell Lawton on January 22 that she and Hirschfeld had posted the grievance procedure notice, but also by the fact that the complement of employees in the phone office was small and that in such cases the Board has found that direct evidence of employer knowledge of union or concerted activity is not necessary to make a finding that the employer had such knowledge.⁴

Accordingly, I find and conclude that Hirschfeld was discriminatorily discharged on January 23, 1974, for having engaged in protected concerted activity.⁵

The issue with regard to the termination of Cornell is more technically complicated. For the same reasons that I have heretofore found Lawton had knowledge of Hirschfeld's activities, I find that Lawton had knowledge of Cornell's activities. And this is so even if she told Reed, on the morning of January 22, that Cornell had better watch herself or she would be next, before Cornell informed Lawton of the drafting and the posting of the grievance notice. In this connection, I again note the small complement of employees in the telephone room who worked under the supervision of Lawton.

Thus, I conclude, that Lawton had sufficient reason to feel unhappy, alarmed and somewhat insecure about the activities of Cornell which had

⁴*Wiese Plow Welding Co., Inc.*, 123 NLRB 616.

⁵As noted by the General Counsel, even assuming that Cornell and Hirschfeld did not actually engage in the concerted activity of discussing and drafting with other employees the grievance notice posted on the bulletin board on the night of January 21, they nevertheless acted in concert with each other which would render their activity in this respect protected.

been reported to her. This clearly shown by the statement to Reed, whose testimony I accept, on January 22, that if Cornell did not watch her step, she would be next. I do not conclude that on January 22 Lawton had made a final determination to terminate Cornell. However, I do note that the record indicates that Lawton was a new supervisor and that there was talk among the employees that Lawton was suspicious of most of the employees, if not all. The so-called "plot"

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against her indicated that Lawton was somewhat insecure in her new position. Accordingly, the activities of both Hirschfeld and Cornell reported to her on January 21 or 22 were sufficient to cause her to fear that Cornell was a possible impediment to her security in her new position. Therefore, when, on Wednesday, January 23, Cornell presented herself as a witness for Hirschfeld and injected herself into a matter which Lawton considered was none of Cornell's business, Lawton, having in mind what had passed in the 48-hour period before that moment, then and there decided to discharge Cornell. This is not to say that this was the only motivation for discharging Cornell. It is possible that Lawton also felt that Cornell was violating university policy. Accordingly I find that Cornell's original discharge by Lawton on January 23 was at least, in major part, motivated by the animus of Lawton caused by Cornell's activity which I find to have been protected concerted activity under the Act.

However, even assuming that Cornell's discharge did not result from any of her prior activity, but only as a result of her injecting herself into the Hirschfeld discharge as a self-proclaimed witness, there is reason to find a violation of the Act. While it is true that in the instant case Hirschfeld did not specifically request a witness when she entered Lawton's office on January 23, it should be noted that I have credited the testimony of Cornell and

Hirschfeld to the effect that they had agreed to act as each other's witnesses, pursuant to university policy, in the event that either felt endangered. However, at the time that Hirschfeld entered Lawton's office on January 23, carrying the summary of the Act, she was under the impression, as set forth in her conversation with Cornell just prior to her entry, that this was to be a continuation of the discussion which Hirschfeld had with Lawton on Monday, January 21. Accordingly, when she went into Lawton's room there was no indication that this was to be a disciplinary proceeding, and, accordingly, she did not have the opportunity to ask for a witness. Moreover, the moment she entered Lawton's office she was discharged and handed her check. Thus, Hirschfeld did not have the opportunity, even after entering Lawton's office, to ask for a witness. While it is true that the argument between Lawton and Hirschfeld ensued in which Hirschfeld refused to accept the discharge, it was this argument which brought Cornell into the room because Cornell heard the voices of the two and became aware of the fact that her fellow activist might be jeopardized with regard to her job security. Thus, although in the cases cited by counsel for General Counsel,⁶ the individual about to be disciplined asked for witnesses beforehand, I find that in the present case no opportunity presented itself for such a request and, therefore, I find that when Cornell came into the room as a witness for Hirschfeld she was acting not only under university policy, which permitted witnesses in such instances, but also pursuant to well-settled Board law.

⁶*Texaco, Inc.*, 168 NLRB 361; *Quality Manufacturing Company*, 195 NLRB 197.

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Accordingly I find that when McGrady changed the discharge to a suspension and then when, a few days thereafter, the suspension was upheld and Cornell was informed that she could return after 3 working days of

suspension upon condition that she not continue her activity, I find and conclude that this constituted a violation, in and of itself, because it interfered with Cornell's Section 7 rights. Moreover, although McGrady, in testifying, denied that there was any unlawful motivation in the ultimate sustaining of Cornell's suspension and the warning letter, he testified that the reason that Cornell was suspended on January 23 was first, because she left her console unattended and secondly she did not carry out the orders of her supervisor to return to her console. However, none of this was mentioned in the letter sent to Cornell in which her suspension was sustained. Moreover, as set forth earlier in this decision, Lawton admitted, in testifying, that at the time that Cornell came into her room claiming to be a witness for Hirschfeld, Cornell had not yet commenced her day's work. As noted before, Hirschfeld was discharged about 12 noon and it is very probable that Cornell entered Lawton's room before the time for her to begin work. Accordingly, I find and conclude that the so-called first reason for the suspension was specious. As to the second reason, Cornell's failure to carry out orders of her supervisor to return to her console, I have already concluded that Cornell was engaging in protected activity when she insisted that she be permitted to act as Hirschfeld's witness.

Respondent's counsel makes one final argument. He states that when Cornell came into the office the discharge had already taken place and that, therefore, there was no necessity for a witness. However, I have heretofore concluded that the matters occurred within such a brief time and so quickly that Cornell's intervention came at the first warning and at the first opportunity that Cornell had to learn that her coactivist was in trouble. Accordingly, I do not find merit in this contention of Respondent.

By reason of all the foregoing, I find that Cornell was wrongfully suspended and that the warning to her that she would be discharged if her

activity continued was lawfully rejected by Cornell, and that the refusal to revoke the suspension and the warning to Cornell with regard to her future conduct constituted a constructive discharge.

Therefore, by its actions with regard to Cornell, I find and conclude that the University violated Cornell's Section 7 rights in violation of Section 8(a)(1) of the Act.

IV. The Effect of the Unfair Labor Practices Upon Commerce

The unfair labor practices of the Respondent set forth in section III, above, occurring in connection with its operations set forth above, have a close, intimate and substantial relation to trade,

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traffic and commerce among the several states and tend to lead to labor disputes burdening and obstructing commerce and the free flow thereof.

V. The Remedy

Having found that the Respondent discriminatorily terminated and refused to reinstate Muriel Hirschfeld and Drucilla Cornell, I shall recommend that the Respondent offer them immediate and full reinstatement to their former and substantially equivalent positions without prejudice to any seniority, or other rights or privileges they may enjoy. Respondent shall make each whole for any loss of pay she may have suffered by reason of the discrimination against her by payment to each of them a sum equal to that which they would have received as earnings from the date of the discharge, January 23, 1974, until each is fully reinstated, less any net interim earnings. Backpay is to be computed on a quarterly basis in the manner established by the Board in *F. W. Woolworth Company*, 90 NLRB 289, with interest thereon at the rate of 6 percent per annum to be computed in the manner set forth in *Isis Plumbing & Heating Co.*, 138 NLRB 716.

On the basis of the foregoing findings of fact and upon the entire record I make the following:

Conclusions of Law

1. Columbia University is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. District 65, Distributive Workers of America is a labor organization within the meaning of Section 2(5) of the Act.

3. By discriminatorily terminating and refusing to reinstate Muriel Hirschfeld because of her protected and concerted activities, Respondent engaged in and is engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and 2(6) and (7) of the Act.

4. By discharging, and then revoking the discharge and suspending and finally discharging Drucilla Cornell for engaging in protected concerted activities, Respondent engaged in and is engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and 2(6) and (7) of the Act.

Upon the foregoing findings of fact, and conclusions of law and the entire record, and pursuant to Section 10(b) of the Act, I hereby issue the following recommended:⁷

⁷In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations,

(Continued)

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be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

ORDER

Respondent, Columbia University, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Suspending or discharging and refusing to reinstate employees in order to discourage its employees from engaging in protected concerted activities.

(b) In any similar manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form labor organizations, to join or assist any labor organization, to bargain collectively with representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act:

(a) Offer to Muriel Hirschfeld and Drucilla Cornell immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges previously enjoyed, and make each whole for any loss of earnings she may have suffered by reason of the discrimination against her in the manner set forth in the section of this Decision entitled "The Remedy."

(b) Preserve and upon request, make available to the Board or its agents for examination, copies of all payroll records, social security payment records and reports and all other reports necessary to analyze the amount of backpay due under this order.

(c) Post at its campus at 116th Street in the City of New York copies of the notice attached hereto and marked "Appendix."⁸ Copies of said notice, on forms duly provided by the Regional Director for Region 2, after being duly signed by Respondent's representative,

⁸In the event that the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall be changed to read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

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shall be posted by the Respondent immediately upon receipt thereof and be maintained by it for 60 consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director for Region 2, in writing, within 20 days from the date of this Order, what steps the Respondent has taken to comply herewith.

Dated at Washington, D. C.

July 31, 1974

/s/ MORTON D. FRIEDMAN

Morton D. Friedman

Administrative Law Judge

APPENDIX

FORM NLRB-4727
(9-69)



APPENDIX JD-517-74
**NOTICE TO
EMPLOYEES**



POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
AN AGENCY OF THE UNITED STATES GOVERNMENT

We hereby notify our employees that:

WE WILL NOT discharge or refuse to reinstate any of our employees for engaging in lawful protected concerted activity such as forming grievance committees or discussing working conditions among themselves, or acting as witnesses for other employees pursuant to University policy in disciplinary or grievance proceedings.

WE WILL NOT in any other manner interfere with, restrain or coerce our employees in the exercise of their right to form, join, or assist or be represented by any labor organization, to bargain collectively with representatives of their own choosing or engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection or to refrain from any or all such activities.

WE WILL offer Muriel Hirschfeld and Drucilla Cornell immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights or privileges, and WE WILL make them whole for any losses they may have suffered as a result of our unlawful action against them.

COLUMBIA UNIVERSITY
(Employer)

Dated _____ By _____
(Representative) (Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 35th Floor, Federal Building, 26 Federal Plaza, New York, N. Y. 10007
Telephone (212) 264-0306.

GENERAL COUNSEL EXHIBIT NO. 1(a)

FORM NLRB-501 (2-67)		Form Approved Budget Bureau No. 64-R001.12	
REGION 2 UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER '74 FEB 15 AM 9:10			
INSTRUCTIONS: File an original and 4 copies of this charge with NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.		DO NOT WRITE IN THIS SPACE Case No. <u>2-CA-13225</u> Date Filed <u>2/15/74</u>	
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer COLUMBIA UNIVERSITY		b. Number of Workers Employed	
c. Address of Establishment (Street and number, city, State, and ZIP code) 116 Street & Broadway, N.Y.C..		d. Employer Representative to Contact Donald Miller, V.P.	e. Phone No.
f. Type of Establishment (Factory, mine, wholesaler, etc.) University		g. Identify Principal Product or Service Education	
h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and <u>3</u> of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.			
2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)			
<p>On or about January 23rd, 1974 the Employer discriminatorily discharged Muriel Hirschfeld and Drusilla Cornell for having engaged in concerted activity.</p> <p>By these and other acts, the employer has restrained, coerced and interfered with the employees in the exercise of their rights as guaranteed under the Act.</p>			
By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.			
3. Full Name of Party Filing Charge (If labor organization, give full name, including local name and number) DISTRICT 65			
4a. Address (Street and number, city, State, and ZIP code) 13 Astor Place, New York, N.Y. 10003			4b. Telephone No. OR3-5120
5. Full Name of National or International Labor Organization of Which It is an Affiliate or Constituent Unit (To be filled in when charge is filed by a labor organization) DISTRIBUTIVE WORKERS OF AMERICA			
6. DECLARATION			
I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.			
By <u>Peter Vankhuyt</u> (Signature of representative or person filing charge)		General Organizer (Title, if any)	
Address <u>13 Astor Place, New York</u>		<u>Or3-5120</u> (Telephone number)	<u>February 13th, 1974</u> (Date)
WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)			

GENERAL COUNSEL'S EXHIBIT NO. 1(c)

[1]

* * * * *

COMPLAINT AND NOTICE OF HEARING

It having been charged by District 65, Distributive Workers of America, herein called District 65, that Columbia University herein called Respondent, has engaged in, and is engaging, in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C., Sec. 151, *et seq.*, herein called the Act, the General Counsel of the National Labor Relations Board, herein called the Board, on behalf of the Board, by the undersigned Regional Director, Region 2, pursuant to Section 1C(b) of the Act and the Board's Rules and Regulations - Series 8, as amended, Section 102.15, hereby issues this Complaint and Notice of Hearing and alleges as follows:

1. The Charge in this proceeding was filed by District 65 on February 15, 1974, and served by registered mail upon Respondent on or about February 15, 1974.

2.(a) Respondent is, and has been at all times material herein, a corporation duly organized under, and existing by virtue of, the laws of the State of New York.

(b) At all times material herein, Columbia University has operated a private university, maintaining its principal office at 116th Street and Broadway in the City and State of New York, where it is, and has been at all times material herein continuously engaged in providing educational and related services.

(c) During the past year, which period is representative of its annual operations generally, Respondent, in the course and conduct of its operations, derived gross revenues therefrom in excess of \$1,000,000.

(d) During the past year, which period is representative of its annual operations generally, Respondent, in the course and conduct of its operations purchased and caused to be transported and delivered to it goods and materials valued in excess of \$50,000, of which goods and materials valued in excess of

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\$50,000 were transported and delivered to it in interstate commerce directly from states of the United States other than the state in which it is located.

3. Respondent is, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 1(2), (6) and (7) of the Act.

4. District 65 is, and has been at all times material herein, a labor organization within the meaning of Section 1(5) of the Act.

5. Mrs. Lawton and James P. McGrady are, respectively, chief telephone operator and associate purchasing agent, and supervisors and agents of Respondent acting on its behalf.

6.(a) On or about January 21, 1974 Muriel Hirschfeld and Druscilla Cornell, in concert with the employees of Respondent, discussed various working conditions of the Respondent.

(b) On or about January 21, 1974, pursuant to their activities described in subparagraph (a), Muriel Hirschfeld, on behalf of other employees of Respondent, approached and discussed with Mrs. Lawton, a supervisor and agent of Respondent certain rules and regulations of Respondent that employees considered to be unfair.

(c) On or about January 21, 1974 Muriel Hirschfeld and Druscilla Cornell placed a notice on a bulletin board at Respondents premises, which notice, *inter alia*, called for the establishment of a grievance committee to deal with Respondent on behalf of its employees in relation to employee grievances.

7.(a) On or about January 23, 1974, Respondent by Mrs. Lawton, at its premises, discharged its employee Muriel Hirschfeld.

(b) On or about January 23, 1974, Respondent, by Mrs. Lawton, at its premises discharged its employee Druscilla Cornell when she advised Mrs. Lawton that she was present as a witness for Muriel Hirschfeld during the course of the meeting in which Muriel Hirschfeld was discharged as described above in subparagraph (a).

8. Respondent discharged and thereafter failed and refused to reinstate or offer to reinstate its employee Muriel Hirschfeld as described above in paragraph 7(a) because she engaged in concerted activities for mutual aid and protection as described above in paragraph 6.

9.(a) On or about January 23, 1974 Respondent by James P. McGrady its agent revoked the discharge of Druscilla Cornell, but suspended said employee pending further investigation.

(b) On or about January 25, 1974 Respondent by letter, advised Druscilla

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Cornell that although she could report to work on January 28, 1974, she would be discharged if there was any repetition of her conduct.

(c) On or about January 26, 1974 Druscilla Cornell advised Respondent's agent McGrady that she could not accept reinstatement on the terms offered her by Respondent.

(d) Since on or about January 23, 1974 Respondent has failed and refused, to reinstate or offer to reinstate, unconditionally, Druscilla Cornell to her former, or a substantially equivalent, position of employment.

10. Respondent engaged in the conduct described above in paragraph 7(b) and paragraph 9 with reference to Druscilla Cornell because said employee engaged in concerted activities as described in paragraph 6 for mutual aid

and protection and because of her concerted activity on behalf of Muriel Hirschfeld as described above in paragraph 7(b).

11. By the acts described above in paragraphs 7 through 10, and by each of said acts, Respondent interfered with, restrained and coerced, and is interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby engaged in and is engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

12. The acts of Respondent described above in paragraphs 7 through 11, occurring in connection with the operations of Respondent described above in paragraphs 2 and 3, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

PLEASE TAKE NOTICE that on the 13th day of May 1974, at 11:00 a.m., at 26 Federal Plaza, 36th floor, in the City and State of New York, a hearing will be conducted before a duly designated Administrative Law Judge of the National Labor Relations Board on the allegations set forth in the above Complaint, at which time and place you will have the right to appear in person, or otherwise and give testimony.

You are further notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, the Respondent shall file with the Regional Director, Region 2, acting in this matter as agent of the National Labor Relations

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Board, an original and four (4) copies of an answer to the said Complaint within ten (10) days from the service thereof, and that unless it does so all of the allegations in the Complaint shall be deemed to be admitted by it to be true and may be so found by the Board. Immediately upon the filing of

its answer, Respondent shall serve a copy thereof on each of the other parties.

Form NLRB-4668, Statement of Standard Procedure in Formal Hearings Held Before the National Labor Relations Board in Unfair Labor Practice Cases is attached.

Dated at New York, New York this 4th day of April 1974.

/s/ SIDNEY DANIELSON

Sidney Danielson, Regional Director

National Labor Relations Board

Region 2

26 Federal Plaza, Room 3614

New York, New York 10007

NATIONAL LABOR RELATIONS BOARD
NOTICE

Case No. 2-C1-13225

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustment. The undersigned attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements will not be granted unless good and sufficient grounds are shown and the following requirements are met:

- (1) The request must be in writing. An original and two copies must be served on the Regional Director;
- (2) Grounds therefor must be set forth in detail;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Columbia University
116th St. and Bway.
New York, N.Y.
Att: Donald Miller, V.P.

District 65, Distributive Workers of America
13 Astor Place
New York, N.Y. 10003
Att: Peter Vandelft

Putney Twombly Hall and Hinson
250 Park Ave.
New York, N.Y. 10017
Att: James Dean, Esq.

SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD BEFORE THE
NATIONAL LABOR RELATIONS BOARD IN UNFAIR LABOR PRACTICE PROCEEDINGS
PURSUANT TO SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The hearing will be conducted by an Administrative Law Judge of the National Labor Relations Board. He will preside at the hearing as an independent, impartial trier of the facts and the law and his decision in due time will be served on the parties. His headquarters are either in Washington, D.C. or San Francisco, California.

At the date, hour, and place for which the hearing is set, the Administrative Law Judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to assure that the issues are sharp and clear-cut; or he may, on his own initiative, conduct such a conference. He will preside at any such conference, but he may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record -- for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the Administrative Law Judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or to make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the Administrative Law Judge for his approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the Administrative Law Judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the Administrative Law Judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The Administrative Law Judge will allow an automatic exception to all adverse rulings, and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies shall also be supplied to other parties. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy before the close of hearing. In the event such copy is not submitted, and the filing thereof has not for good reason shown been waived by the Administrative Law Judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. In the absence of a request, the Administrative Law Judge may himself ask for oral argument, if at the close of the hearing he believes that such argument would be beneficial to his understanding of the contentions of the parties and the factual issues involved.

Any party shall also be entitled upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the Administrative Law Judge who will fix the time for such filing.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations with respect to the procedure to be followed before the proceeding is transferred to the Board:

No request for an extension of time within which to submit briefs or proposed findings to the Administrative Law Judge will be considered unless received by the Chief Administrative Law Judge in Washington, D. C. (or in cases under the San Francisco, California branch office of the Division of Judges, the Associate Chief Administrative Law Judge in charge of such office) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously upon all other parties, and proof of such service furnished to the Chief Administrative Law Judge or Associate Chief Administrative Law Judge as the case may be. All briefs or proposed findings filed with the Administrative Law Judge must be submitted in triplicate, and may be in typewritten, printed, or mimeographed form, with service upon the other parties.

In due course the Administrative Law Judge will prepare and file with the Board his decision in this proceeding, and will cause a copy thereof to be served upon each of the parties. Upon filing of the said decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, upon all parties. At that point, the Administrative Law Judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the Administrative Law Judge's Decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, Series 8, as amended, particularly in Section 102.46, and following sections. A summary of the more pertinent of these provisions will be served upon the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the Act reduce government expenditures and promote amity in labor relations. Upon request, the Administrative Law Judge will afford reasonable opportunity during the hearing for discussions between the parties if adjustment appears possible, and may himself suggest it.

GENERAL COUNSEL'S EXHIBIT NO. 1(e)

ANSWER

COLUMBIA UNIVERSITY, herein called "Respondent", by its attorneys, Putney, Twombly, Hall & Hirson, hereby files its Answer to the Complaint dated April 4, 1974, and states as follows:

1. Respondent admits Paragraphs 1, 2 a), b), c), d), 3, 4, 5, 7 a) of the Complaint.
2. Respondent denies each and every allegation contained in Paragraphs 6 b), 7 b), 8, 9 a), b), c) and d), 10, 11 and 12, of the Complaint.
3. Respondent is without knowledge or sufficient information to form a belief as to the truth of the allegations contained in Paragraphs 6 a) and c) of the Complaint.

WHEREFORE, Respondent demands that the Complaint be dismissed in its entirety.

Dated: New York, New York

April 11, 1974

PUTNEY, TWOMBLY, HALL & HIRSON

By /s/ DAVID H. DIAMOND

Attorneys for Respondent

250 Park Avenue

New York, New York 10017

Telephone No. (212) 661-8700

G C 2 FOR ID
IN EVID

GENERAL COUNSEL EXHIBIT NO. 2

NATIONAL LABOR RELATIONS BOARD

Docket No. _____ OFFICIAL EXHIBIT NO. G C 2

Disposition { Id. notified ✓
Received ✓
Rejected _____

In the matter of FOCUS AB 1A
Date 5/1/72 Witness _____ Reporter 41-R
No. Pages _____

Workers do have rights. We have the right to bring our grievances to the attention of our employer. We have the right to organize to change our working conditions. We do not have to sit back passively and accept rules and regulations we think are unfair. Any group of us, chosen by election or directly, can represent the rest of these employees in designated bargaining unit, equally as much so as an established union. The NLRB will protect any group of us equally as much as it will a union. There have been several precedent-setting cases in the last 2 years.

NATIONAL LABOR RELATIONS BOARD

Docket No. _____ OFFICIAL EXHIBIT NO. G-63

Disposition

Id. added _____
Reviewed _____
Reported _____

In the matter of Columbia University

Date 5/7/71 by _____ Reporter _____

No. Pages

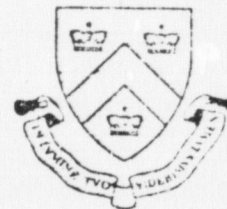
REGION 2
NLRB

'74 MAR 18 PM 5:16

NEW YORK, NEW YORK

Columbia University

PERSONNEL POLICIES
for supporting staff (non-union)



Revised April 1971

GENERAL COUNSEL EXHIBIT NO. 3

COLUMBIA UNIVERSITY

PERSONNEL POLICIES

For Supporting Staff (non-union)

Revised April 1971

* * * * *

Termination

An employee who decides to resign his employment is expected to provide two weeks' notice. If, after completion of the probationary period, the University decides to terminate an employment, it will normally give the employee a minimum of two weeks' notice or pay in lieu thereof.

A regular employee who has completed at least three calendar months of service and who resigns, or who is involuntarily terminated, shall receive any accumulated vacation pay due him.

Coverage under benefit plans is discontinued at the end of the month during which termination occurs. Exceptions to this are group life insurance which expires 31 days following date of termination, and retirement coverage for those who are eligible for vested rights under the retirement plan. During the month following termination, an employee may elect to convert his life insurance to a straight life policy without a medical examination, but at the rate for his attained age. It is important for the terminating employee who has been covered under the noncontributory Blue Cross-Blue Shield plan to promptly request a conversion card so that he may use it to apply to Associated Hospital Service for direct payment coverage.

An employee who has had a qualifying period of employment, and whose employment is terminated for reasons beyond his control, is eligible to apply for unemployment insurance benefits under the New York State Unemployment Insurance Law.

Employee Grievances

A procedure has been established to help the employee solve any serious problem related to his work or relationship with the University. As a first step, the problem should be discussed by the employee with his immediate supervisor. If no resolution of the problem is achieved, the employee may then appeal, as a second step, to the dean, director, or department chairman responsible for the area in which he works. If the problem is not resolved at this second step, the employee may then, if he so elects, state the basis of his grievance in writing to the Director of Personnel, who will meet with him to attempt a solution of the problem. At any of the three steps above described, the grievant may ask a fellow employee to accompany him to any conference at which the problem is discussed. As a final step, normally limited to problems of significant import where the employee is faced with disciplinary action or discharge, an arbitration panel may be requested by the employee. For this purpose the employee affected shall select one arbitrator, the Administration shall select one arbitrator; and these two arbitrators shall choose a third arbitrator to serve as chairman of the panel. In the event the two do not agree on the choice of the third within a reasonable period of time, the chairman may be designated by the President of the University (or in his absence, a vice president). All arbitrators shall be officers or full-time supporting staff of Columbia University and their decision will be final and binding.

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GENERAL COUNSEL EXHIBIT NO. 4

G04

18-601D

NEW YORK, NEW YORK

NATIONAL LABOR RELATIONS BOARD
 DEPT. NO. _____ OFFICIAL EXHIBIT NO. G04
 Deponent _____
 Identified _____
 In the Matter _____
 Date 1/14/44 Received _____
 No. Pages _____ Reported _____
 Reported by NEB

Cows May Come
 and Cows May
 Go, But The Bull
 Around This Place
 Goes on Forever!!

GENERAL COUNSEL EXHIBIT NO. 5

Columbia University in the City of New York
Box 181 Central Mail Room — Purchasing Office
New York, New York 10027

January 25, 1974

Miss Drucilla Cornell
19 West 69th Street
Apt. 506
New York, N. Y.

Dear Miss Cornell:

This letter will confirm the verbal suspension given to you on January 23, 1974. This suspension was necessitated because of your uncalled for interference with the normal conduct of business by the Chief Operator and your refusal to desist with this interference when ordered to do so by the Chief Operator, your supervisor.

You are suspended from your position as Telephone Operator at Columbia University as of January 23, 1974. This suspension is for a period of 3 working days. You will be expected back at your work January 28, 1974.

You are, furthermore, warned that any repetition of the aforementioned conduct will result in the termination of your employment at Columbia University.

Very truly yours,

/s/ JAMES P. McGRADY

James P. McGrady
Associate Purchasing Agent

JPM:cs

GENERAL COUNSEL EXHIBIT NO. 6

Columbia University in the City of New York
Box 181 Central Mail Room -- Purchasing Office
New York, New York 10027

January 29, 1974

Miss Drucilla Cornell
19 West 69th Street
Apt. 506
New York, N. Y.

Dear Miss Cornell:

You were informed by telephone and letter that your suspension was for a three day period and you would be expected back to your regular work January 28, 1974.

You notified me by phone that you could not return to your position under conditions specified in your suspension. It is noted that you have not returned to work as of this date and therefore Columbia University considers that you have resigned.

This is your advice therefore that your employment at the University is terminated and your final check is being prepared.

Very truly yours,

/s/ JAMES P. McGRADY

James P. McGrady
Associate Purchasing Agent

JPM:cs

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Very truly yours,

/s/ JAMES P. McGRADY

James P. McGrady
Associate Purchasing Agent

JPM:cs

GENERAL COUNSEL EXHIBIT NO. 7

Procedures to be Followed by Staff Members of Telephone Office:

1. Answering phrase: "This is Columbia." Do not give direct dial number to customer unless the number is asked for. "Please" and "Thank you" are to be used on all calls.
2. One minute and no longer on any call.
3. No listening in on calls, unless told.
4. Customer may hold on busy extension as long as he wishes.
5. The phrase for a busy signal is, "The extension is busy. Will you wait, please?"
6. Customer will not be abused by operators.
7. If there is a problem with console, I want to know about it no matter what the trouble is.
8. If you do not have name or extension listed in your directory, tell customer you will connect to Information.
9. Whatever is discussed in this office, I would like to remain in here and not be carried outside.

Mrs. Onnie Lawton
Chief Operator

GENERAL COUNSEL EXHIBIT NO. 9

State of New York) ss
County of New York

Muriel Hirschfeld, being duly sworn, deposes and says:

I reside at 777 E. 169th St., Bronx, N. Y. 10456 Tel. 292-4730

I worked as a telephone operator for Columbia University for about
5 1/2 weeks.

On Monday, January 21, 1974, I was in the switchboard area with the
other operators and we discussed the various rules and regulations that we
felt were unfair in our department. Present were Drusilla Cornell, Marian
Lloyd, Gwen Rodgers, Roxanna Brandeau, Barbara Joyce and myself. This
was about 1:00 p.m. when we had this conversation.

The other girls were getting ready to leave at about 10 minutes

[2]

to five when I told Dru Cornell that I felt I should go in to speak to Mrs.
Lawton, our supervisor, about the rules we felt were unjust. Dru agreed
with me and said that she would back me up. The other girls were not
aware of what I was going to do.

At about 5 minutes to five I went in to see Mrs. Lawton. I told her,
"I feel that some of the rules and regulations are unfair." One of the rules
I mentioned was that we had to use the phrase, "May I please be excused
to leave the

[3]

room to go to the ladies' room." I told her that we could simply ask for
converage and leave. She stated, "Any other phrase would be insubordinate."
I also discussed the inconsistency of policy from day to day in the instruc-
tions she gave us for dealing with callers. She then told me, "I'm the only
boss in 114 (our room number) and if you don't like it, then quit." She

then told me we would discuss this further tomorrow as she was leaving for the day. Nobody else was present in the room when this conversation took place in her

[4]

office. The door was open into the operators' office and Dru told me later that she heard what went on. The other operators were gone by the time the conversation started. Chris, I don't know his last name, is a part time operator who comes in at 5:00 p.m. and I believe he heard some of this conversation. As my hours are noon to 8:00 p.m. (as are Dru's) I worked the rest of my shift without incident. This is all I remember about that conversation with Mrs. Lawton.

The same night, Dru Cornell and I composed a notice

[5]

stating that we intended to form a grievance committee to deal with the unfair rules and regulations. We then posted this notice on the bulletin board in our office. Nothing further happened that night that I can remember at this time.

The following day, Tuesday, January 22, 1974, Dru went into Mrs. Lawton's office to speak to her. I was not in Mrs. Lawton's office but at my console in the operator's office which adjoins it. The door was again open and as the conversation was conducted loudly, I was able to hear most of what was

[6]

discussed. Three other operators commented they heard at least some of what was discussed, these individuals being Marian Lloyd Barbara Joyce and Gwen Rodgers. The other girls were out to lunch at the time.

Basically, I heard Dru tell Mrs. Lawton, "Muriel and I are responsible for the notice." Mrs. Lawton said, "You admit to it?" Dru said, "Yes,

we did. Don't you believe workers have certain rights?" Mrs. Lawton said, "No, I don't." Dru said, "When you were a worker, didn't you think you had rights then?"

[7]

Mrs. Lawton said, "No, I didn't have any rights. There is just one boss in 114 and if you don't like it you can quit." Dru said "I don't believe in a defeatist attitude. I want to bring about a change in conditions rather than just leave." Mrs. Lawton said, "I'll call the operators in and ask them if they have any grievances." She then stormed out of the office saying she didn't want to discuss the matter any further. Dru then returned to her console and began to work. This is all I remember about that conversation.

[8]

Mrs. Lawton did not speak to me that day.

The following day, Wednesday, January 23, 1974 which was a payday, Mrs. Lawton called me into her office when I arrived at 11:50 a.m. She told me, "Here is your check. You're terminated." I asked her why. She told me, "Incompatibility of views." I said, "With whom?" She said, "With me." I told her I wasn't going to leave until I saw someone in authority. She then shouted at me, "If you don't leave my office, I'll put my hands on you and hurt you." At

[9]

that moment Dru came in. Mrs. Lawton told her, "Your name is not Muriel. I called Muriel. If you don't get out, I'll knock your teeth out." Mrs. Lawton then picked up the phone and called the security guards. Dru and I went to sit at our consoles. The guards arrived about 5 to 10 minutes later. In the meantime, Mrs. Lawton came to the door of her office and yelled to Dru, "You were next anyway. You're fired for interfering." When the security guards arrived, Mrs. Lawton tried to get them to

[10]

arrest us. Dru and I explained what happened. The guards then told Mrs. Lawton, "We can't get involved between labor and management." We told the guards we wanted to see Mr. McGrady, head of purchasing. (Our department works under the Purchasing department.) The guards then summoned their supervisor, Mr. Soldatsky. When he arrived, Mrs. Lawton took out a letter of termination. Mr. Soldatsky gave it to me and took Dru and I into Mrs. Lawton's office and spoke to us about what went on. He then said he

[11]

would get Mrs. Lawton to call Mr. McGrady which he did. He then gave the letter back to Mrs. Lawton who said it was her only copy. Mrs. Lawton said I was going to receive a copy.

About 5 minutes later, Mr. McGrady arrived. I told him what went on and I felt my firing was unfair. He told me there was nothing he could do at that time since a formal termination letter had been written. He said the decision couldn't be reversed until after an investigation and I could file a grievance. He

[12]

told Dru he was reversing her firing and converting it to an indefinite suspension. This is all that I remember about that conversation. Dru and I then left and went to personnel and filed an official grievance.

The following day we spoke to Mr. McKeever at personnel and he told us to call Mr. McGrady after 3 days as an investigation would be conducted. (Mr. McKeever is no longer at the University.) I called as told and Mr. McGrady told me he was sorry but he had to uphold Mrs. Lawton. I asked him about my letter of

[13]

termination and a day's pay owed me and he told me I would receive it.

RESPONDENT'S EXHIBIT NO. 1

NATIONAL LABOR RELATIONS BOARD

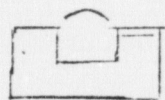
Case No. _____ OFFICIAL EXHIBIT NO. R-1

Disposition

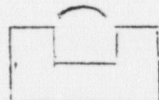
Re: _____

Referred to _____

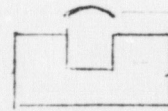
In the presence of Columbo _____
by _____ _____
Two copies



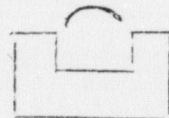
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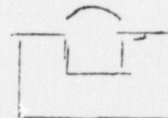
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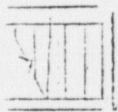
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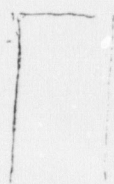
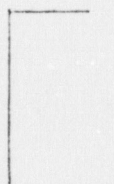
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4



R-1



RESPONDENT'S EXHIBIT NO. 2

[illegible]

[1]

BEFORE THE NATIONAL LABOR RELATIONS BOARD

Second Region

In the Matter of:)	
COLUMBIA UNIVERSITY,)	
and)	Case No.
DISTRICT 65, DISTRIBUTIVE)	2-CA-13225
WORKERS OF AMERICA)	

26 Federal Plaza
New York, New York
Tuesday, May 21, 1974

The above-entitled matter came on for hearing pursuant to notice
at 11:30 a.m.

BEFORE: HON. MORTON D. FRIEDMAN,
Administrative Law Judge

APPEARANCES: ALEXANDER P. ROSENBERG, ESQ.
26 Federal Plaza,
New York, New York,
appearing on behalf of the General Counsel.

DAVID H. DIAMOND, ESQ.,
Putney, Twombly, Hall & Hirson, Esqs.,
250 Park Avenue,
New York, New York,
appearing on behalf of the Respondent.

[2]

CONTENTS

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
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Barbara Joyce	108	110	123	
Betsy Reed	124	129	135	

<u>Exhibits:</u>	<u>For Iden.</u>	<u>In Evid.</u>
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GC 6	47	48
GC 7	102	103
GC 8	125	127

* * * *

[4]

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I was supplied a copy of a pre-hearing conference that was taken by Judge Kessel and I notice there are some matters in there that are going to be stipulated into the record, I presume. So, as soon as you introduce your formal papers, Mr. Rosenberg, we'll proceed with the stipulations and then we can go on with the hearing. Unless you want to stipulate it at a different time. I'm not telling you how to run with your case.

MR. ROSENBERG: Some of them go to modifications as to respondent's answer to the complaint.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Put your formal papers in first, please.

MR. ROSENBERG: I would like to offer into evidence the formal papers, they have been marked for identification as General Counsel's Exhibits 1A through 1H inclusive; 1H is an index and description of the formal documents.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Any objections?

[5]

MR. DIAMOND: No objections.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Received.

(General Counsel's Exhibits Nos. 1A through 1H for identification were received in evidence.)

MR. ROSENBERG: In our pre-trial conference before Judge Kessel held on May 6, the respondent amended portions of its answer to reflect its true position and if we can just run through them at this time to see what was accomplished --

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Proceed.

MR. ROSENBERG: To facilitate it, I have a copy of the re-marked pleadings, the markings are in the margins for your guidance.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Thank you.

MR. ROSENBERG: Respondent has admitted all of paragraphs 1 through 1. They deny knowledge as to paragraph 6A. They deny paragraph 6B, no knowledge as to paragraph 6C. They admit 7A and as far as 7B is concerned, they admit so much of that as states that Drucilla Cornell was discharged on January 23 and then they contend the section about which they don't agree is when they advised Mrs. Lotney that she was a witness during the meeting with Murial Hirschfeld -- the rest of that is admitted.

* * * * *

[6]

DRUCILLA CORNELL

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Please state your name and address for the record.

THE WITNESS: Drucilla Cornell, 19 West 69th Street, New York, New York, apartment 506.

DIRECT EXAMINATION

[7]

BY MR. ROSENBERG

Q. Miss Cornell, I will ask you to speak so that the Reporter can hear you. A. Fine.

Q. Were you ever employed by the respondent Columbia University?

A. Yes, I was.

Q. What was your position there? A. I was a switchboard operator.

Q. When did you start on that employment? A. November 19.

Q. Was that in 1973? A. 1973.

Q. Who was your supervisor when you were employed as a switchboard operator? A. Mrs. Ongarten.

Q. Where do the telephone operators physically perform their duties?

A. Room 114 in the library.

Q. Do you know Mrs. Muriel Hirschfeld? A. Yes, I do.

Q. How do you know her? A. We met when we were both employed by Columbia.

Q. Was she a telephone operator? A. Yes.

Q. When did Mrs. Hirschfeld start her employment as

[8]

a telephone operator at Columbia? A. December 13, 1973.

Q. What were your normal working hours when you were employed by Columbia? A. I worked from 12:00 noon to 8:00 p.m.

Q. Did you have a lunch hour? A. Yes.

Q. When was that? A. 3:00 p.m. to 4:00 p.m.

Q. What were Mrs. Hirschfeld's hours? A. She also went to lunch from 3:00 pm to 4:00 pm.

Q. I direct your attention to January 21, 1974, Monday, at around 11:00 in the morning. Did you have occasion to meet with Muriel Hirschfeld?

A. Yes.

Q. Where was that? A. At Chock Full 'O Nuts.

Q. How long were you there? A. We were there for about a half an hour.

Q. Where did you go after leaving Chock Full 'O Nuts? A. We reported to work.

Q. What time did you report for work? A. Between 11:45 and 11:50.

Q. Prior to your starting work that day, did you have any discussions with Mrs. Lawton?

[9]

A. Yes.

Q. Will you please describe the circumstances? A. Yes, Muriel and I arrived at work. When we proceeded to our consoles to plug in, Mrs. Lawton said she wanted to see us in her office. She said, "You're not in trouble. I just want to inform you about a change in policy."

She said if someone called up and the line was busy, we were to not connect the person, but wait until the person requested to hold or wait. We were not to inform him. Prior to that, we were asked to say, "Would you hold" and there was a change in policy to say "Would you please like to wait".

Now we were to say nothing until we were asked a question.

The other change in policy was that if another party asked for a phone number, we were to give the person the phone number and to connect him. Prior to that, the policy was, say a student called up and said, "I would like to speak to John Smith. What is his phone number?", we would say, "Sir, would you like to be connected."

I was not exactly clear on the policy and started to question the policy and I was still not clear actually when I left the office, but Muriel said she understood.

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what the changes were to be and we proceeded to go back to our consoles.

Q. How long would you say this meeting lasted? A. Five minutes at the most.

Q. Were the voices used in this meeting quiet or loud? A. Quiet.

Q. And you say that you returned to your consoles? A. Yes.

Q. After reporting to your consoles, did you have occasion to observe Mrs. Lawton? A. Yes, about 20 minutes later she went out for her lunch hour.

Q. Approximately how long was Mrs. Lawton away on her lunch hour? A. Approximately an hour.

Q. During the hour that Mrs. Lawton was out of Room 114, did you have any discussions with your fellow telephone operators? A. Yes, I did.

Q. Where did this take place? A. In the switchboard operating room.

Q. Will you tell me, please, who was present during these conversations? A. Yes, Muriel and I said that we were still not

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clear about --

Q. The question was, will you tell me who was present. A.
Barbara Joyce, Marian Lloyd, Gwen, I don't know her last name, Roxanna
Brandao, and I believe that Betsy Reed was there for the last part of the
conversation.

MR. DIAMOND: What were the names?

THE WITNESS: Gwen, Barbara, Marian Lloyd, Betsy Reed

Q. And you and Miss Hirschfeld? A. Yes.

Q. Will you please tell the court as best you can what was said during
that conversation, trying to reconstruct who said what and what was said?

A. I believe I initiated the conversation by saying that I was not clear as
to what I was supposed to do. Muriel also said she was not clear and was
upset about the continually changing policy, that since the time she had
been trained, the policy had been changed several times.

Gwen told me that I should just proceed by my best judgment, that
Mrs. Lawton ran the office by her moods and not by any system, so I
shouldn't be concerned about it.

Barbara Joyce said she was a grown woman and

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had been an operator for many years and knew how to best perform her
service and didn't have to be told when to say please and thank you.

I said that these grievances should be brought to Mrs. Lawton's
attention and I intended to speak to her myself about it.

I was told that I should be careful, that I had been sick and that this
would be used against me: that any time anyone tried to bring grievances
in that office, they had been fired.

Muriel said she felt the same way I did and that we had to do some-
thing about it. We pretty much decided at the end of the discussion, that
I would go in and speak to Mrs. Lawton myself and Muriel made it clear

that she would back me up in anything I said to Mrs. Lawton.

Q. Do you recall anything else being said during this conversation?

A. There were some specific objections to unfair rules and regulations.

Q. What were those? A. One rule that was objected to was the rule that said you had to raise your hand and say, "May I please go to the bathroom".

Q. Who objected to this? A. There were objections on the part of Gwen. She

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said she would just get up and go to the bathroom and she didn't have to ask. She said we shouldn't be upset about unfair policies, just do what we wanted. That's the way she handled it.

Q. Would it refresh your recollection if I asked you if anyone said anything about a grievance committee? A. I said something about a grievance committee and a group of friends of mine at the Bank of America who started a grievance committee there. Two of the women were discharged and then reinstated and the committee was recognized.

Q. You stated this to the people there? A. Yes.

Q. Approximately when did this discussion terminate or end? A. About 1:15.

Q. And approximately when did Mrs. Lawton return? A. Between 1:15 and 1:30.

Q. Would it be fair to say that it terminated prior to Mrs. Lawton's return? A. Yes, it did.

Q. Did you go to lunch on Monday, January 21, 1974? A. Yes.

Q. What time was that? A. 3:00 p.m.

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Q. Who did you go with? A. Muriei Hirschfeld.

Q. During lunch, did you have any discussions with Muriel Hirschfeld?

A. Yes, we went over the discussion we had in the office. I told Muriel at length about the Bank of America experience plus another organizing experience that I was engaged in personally. We agreed that a grievance procedure would be the best way to move ahead.

We agreed that if we had reason to talk to Mrs. Lawton, we agreed that whoever went first, she would be supported by the other one. We agreed that we should go in individually to try to give Mrs. Lawton the benefit of the doubt.

I agreed that I would go in first.

Q. Where did this conversation take place? A. Home of the Hero.

Q. Is that a restaurant? A. Yes.

Q. Was anybody else present? A. Well, it was quite crowded, it was 2:00, 3:00 p.m., there were a lot of people in there getting sandwiches.

Q. Was anybody party to your conversation? A. There was nobody else eating lunch with us.

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Q. Do you recall anything else about this conversation, the agreement you made with Mrs. Hirschfeld? A. Well, we specified the agreement at that time that if I went in first, Mrs. Hirschfeld would go in afterwards to state that we were stating grievances not just for ourselves, but for the operators as a whole.

Two, we agreed that in the event that either one of us was called in what seemed like a threatening situation, we would follow the University grievance procedure where one of us would act as the other's witness.

Q. What time did you return from lunch that day? A. Around 4:00.

Q. Now, I direct your attention to around a quarter to 5:00 on

January 21, 1974 and ask you if you recall any conversation taking place between Mrs. Lawton and Mrs. Hirschfeld? A. Yes, I do.

Q. What were the circumstances that gave rise to this conversation?
A. Mrs. Lawton asked Mrs. Hirschfeld to change consoles. When she got up to change consoles, she got up and threw a piece of paper into the wastepaper basket and proceeded into the locker room to get an aspirin.

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Q. What, if anything, then happened? A. Mrs. Lawton told her to stop sashaying around that she should do it when Mrs. Lawton wasn't present.

Q. Was anybody else present at that time? A. Christopher Wells came in at about that time.

Q. This took place in the area where the consoles were? A. Yes, it did.

Q. Who is Christopher Wells? A. A part time night operator.

Q. After Mrs. Hirschfeld had this conversation with Mrs. Lawton, what, if anything, did Mrs. Hirschfeld say to you? A. She told me she intended to speak to Mrs. Lawton right then, that she felt she had to voice her grievances right now. I told her I would back her up.

Q. What, if anything, did Mrs. Hirschfeld do? A. She asked Mrs. Lawton to speak to her.

Q. Did she speak to Mrs. Lawton? A. Yes.

Q. Where was that? A. In Mrs. Lawton's office.

Q. Did you hear any part or all of that conversation? A. I heard part of the conversation.

Q. Will you please tell the court what you heard?

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A. I heard Muriel telling Mrs. Lawton that she wanted to bring grievances that the other operators had to her attention.

I heard Mrs. Lawton say -- I didn't hear an immediate response to that remark, but I heard her say "I'm the only boss in 114" and she said she didn't like Muriel's attitude.

Q. Did you hear anyone make a statement about who made the rules?

A. Yes, Mrs. Lawton said she made the rules when she said she was the only boss in 114.

Q. Now, were the voices in this conversation quiet or loud? A. As I said, I only heard Muriel's one remark. But several times Muriel spoke in a loud voice.

Q. How long did this conversation take place? A. Not more than 10 minutes.

Q. How did it end? A. Mrs. Lawton left the room and told Muriel she would continue the conversation the next day.

Q. What did Mrs. Lawton do after this? A. She put on her coat and left.

Q. Is there a night crew of operators at the telephone center? A. Yes, there is.

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Q. Who are the telephone operators that work the night shift, if you know? A. Frank -- I don't know their last names. Frank, Morris, a woman named Cindy, Christopher Wells, a gentleman by the name of Percy was working there. I'm not sure if he was working there at the time I was fired because I didn't see him for awhile.

Q. Do you recall anybody else? A. No, I do not.

Q. Would it refresh your recollection if I named an individual by the name of George? A. George, yes.

Q. Now, do you and Muriel Hirschfeld work part of this night shift?

A. Yes, we do.

Q. On January 21, which or whom of any of these operators were working that evening? A. Christopher was there, Frank was there and Morris was there.

Q. None of the others? A. No.

Q. When did each of these individuals come to work that day? A. Morris usually arrived around 5:00, Chris arrived a few minutes before 5:00 and Frank arrived around 6:00.

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Q. Did you and Muriel have any discussions with these operators on January 21, 1974? A. Yes, we did.

Q. Where would that have been? A. In the operator's room.

Q. And at what time? A. After Frank had arrived, so, sometime after 6:00.

Q. Will you please tell the court what was said in these discussions and who said it, please? A. Yes, I will.

Muriel Hirschfeld opened up the conversation by summing up what had happened when she went to see Mrs. Lawton. She said she felt Mrs. Lawton was not at all receptive about individuals bringing in their grievances. She said she felt Mrs. Lawton wasn't going to respond. She said that she and I felt that there should be a grievance procedure so unfair rules could be changed.

The part time operators had also been given a set of instructions and they had a meeting and they told Muriel and I that they were upset with the rules and regulations.

There was a great deal of displeasure about the comment that "I'm the only boss in 114" since Frank had been the boss, per se, and he had been the person to go to and he felt that some of his authority had been taken

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away for him to make decisions when Mrs. Lawton wasn't there. There was

deal of sympathy about forming a grievance procedure and a great deal of fear. We said we would take the initiative and hold ourselves responsible for any actions.

We decided that the next way to proceed would be to draw up a notice stating how workers should be organized. We talked about the National Labor Management Relations Act. I spoke specifically about the right that workers had to organize.

Muriel said that the notice should in no way be degrading to Mrs. Lawton, just stating that we had right.

We decided to draw up a statement with continuous suggestions from the other operators who were there at that time.

MR. ROSENBERG: I would like this marked as General Counsel's Exhibit No. 2 for identification.

(Whereupon the document referred to was marked General Counsel's Exhibit No. 2 for identification.)

Q. I show you what has been marked as General Counsel's Exhibit No. 2 for identification and ask you if you can recognize it? A. Yes, I do recognize it.

Q. What is it?

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A. It's the notice we posted up on the bulletin board.

Q. That's a copy of the notice? A. Yes.

Q. Is that in your handwriting? A. Yes, it definitely is.

MR. ROSENBERG: Do you have any objection to entering this into evidence now?

MR. DIAMOND: I have no objection. What are you presenting it for?

MR. ROSENBERG: We have agreed that there's no entry to a Xerox copy and Miss Cornell stated that she prepared it and that it's her handwriting.

MR. DIAMOND: No objection.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: It's received.

(General Counsel's Exhibit No. 2 for identification, was received in evidence.)

Q. Who posted this notice? A. Muriel Hirschfeld posted the notice.

Q. Where did she post it? A. On the bulletin board.

Q. Where is the bulletin board located? A. In 114.

Q. Who, if anyone, observed her posting the notice? A. Chris, Morris, Frank and myself saw Muriel posting

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the notice.

Q. Did you ever have occasion to make a copy of the notice? A. Yes, I did, right there and then due to the fact that Morris and Muriel both felt that the notice would be ripped down from the bulletin board, so there could be a copy so that no charge could be brought against us for writing language that wasn't really in there.

Q. Will you tell the court what types of items you saw posted on that bulletin board? A. There were many types of items. Christmas cards, notices relating directly to work, advertisements, cartoons. It's very much up to the option of the individual to post what they felt should be posted.

Q. What time of the day was this notice posted? A. The notice was posted sometime after 7:00, I would guess.

Q. Did you and Mrs. Hirschfeld leave work at sometime on that day? A. At 8:00 p.m.

Q. Did you leave together? A. Yes, we did.

Q. I now direct your attention to Tuesday, January 22, 1974, that's the next day, at round 11:00 o'clock in the morning. Did you have occasion

to meet with Muriel

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Hirschfeld before going to work that day? A. Yes.

Q. Where was that? A. In Chock Full 'O Nuts.

Q. Did you have any conversations with Mrs. Hirschfeld in Chock Full 'O Nuts? A. Yes.

Q. Was anyone else present? A. Not with us.

Q. Will you tell the court what was said — did you have conversations with her? A. Yes.

Q. Will you tell the court what was said in those conversations?

A. Yes, once again we summed up what was said the night before. We decided how best to proceed with the formation of a grievance committee. We stated that if there was any trouble as a result of the posting of the notice, if one of us was called in, if it seemed like a threatening situation, the other one would respond and go in and say that under University policy, we had a right to a witness, we read the personnel book and interpreted the policy that way.

We decided that the best way to proceed would be for us to go into work a bit early so I could speak to

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Mrs. Lawton on my own time. I told Mrs. Lawton that we would be bringing grievances, not just for herself and myself, but what the other operators wanted.

We figured a good way to proceed was to ask Mrs. Lawton to hold a meeting with the other operators or at the very least, to speak to the other operators individually. At that time we had a great deal of hope that these grievances could be resolved without any conflict.

We proceeded to work about 11:40.

Q. In either of these conversations, did either of you express any apprehension that either of you might be fired? A. Yes, we considered that a real possibility, but I at that time figured the grievances could be worked out without that resulting, but we wanted to be prepared in case that happened.

Q. I believe you testified that under University policy, you felt you had a right to be a witness and you stated, I believe, that this was stated in the University personnel policies booklet. A. Right.

MR. ROSENBERG: I would like this marked for identification as General Counsel's Exhibit 3.

(Whereupon the document referred

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to was marked General Counsel's Exhibit No. 3 for identification.)

Q. I show you pages 3 and 4 of that booklet entitled "Employee Grievances" and ask you if the provisions contained on pages 3 and 4 entitled "Employee Grievances" are what you're referring to? A. Yes, that's what I'm referring to.

Q. Were you ever given a copy of this? A. Yes, I was.

Q. Who gave it to you? A. Mrs. Ongarten.

Q. When was that? A. When I was first employed.

Q. Was the booklet she gave you identical in appearance to this document? A. Yes.

MR. ROSENBERG: I would like to offer this into evidence.

MR. DIAMOND: No objection.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Received.

MR. ROSENBERG: May we put the two Xerox copies in?

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Yes, if they are exact copies.

MR. ROSENBERG: They are.

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(General Counsel's Exhibit No. 3 for identification, was received in evidence.)

Q. I believe you stated you arrived at work that day at about what time? A. 11:40.

Q. Was the notice still on the bulletin board when you got to work? A. No.

Q. Did you have any conversations with Mrs. Lawton after you arrived at work? A. Yes, I did.

Q. Where was that? A. In Mrs. Lawton's office.

Q. And at what time? A. Very soon after I arrived at work. As soon as I opened the door, I asked to speak to Mrs. Lawton.

Q. Was anybody else present during that conversation? A. No one else was present during the conversation with Mrs. Lawton.

Q. What time does Mrs. Lawton get to work? A. I believe at 9:00 in the morning.

Q. Was she there before you were on that day? A. Yes, she was.

Q. Is she usually there before you arrive at work? A. Yes, she is.

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Q. Will you please reconstruct the conversation that you had with Mrs. Lawton as best you can, stating what you said and what she said and any actions that took place during the conversation? A. I had been told by Roxanna Brandao that Mrs. Lawton took the notice down. When I went in to speak to Mrs. Lawton, I said the usual amenities, "Hello, how are you."

The reason I was there, I told her, was that Muriel and I were there to put up a notice. I said pulling the notice down was illegal because there had been no prior restrictions to posting a notice on the bulletin board.

She said as far as she knew, I was wrong in posting the notice and why had I not come to speak to her individually.

I said the night before Muriel had come to speak to her on my behalf and her behalf, and on behalf of the other operators as well. I said we had already tried that route, but now we wanted a grievance committee.

I said I wanted to see a meeting of the operators. Mrs. Lawton said she wanted to speak to the operators individually. I said that would be an acceptable compromise, but I said I wanted all the operators to speak publicly to Mrs. Lawton about the buzzing of what was

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going on in the office at that time.

She told me she was aware of a plot and she did not trust anybody who was working for her.

I told her that was unnecessary because Muriel and I were honest and upfront and we told her what we disagreed with.

We were not doing this as workers, but we felt this would benefit the entire office and mean better service for the customer.

Mrs. Lawton and I continued to exchange remarks about whether workers could express their rights and she said they couldn't.

I told her of the Labor Management Relations Act and she said if there was such a law, I should have a written document with me.

I said if she would like a written document, I would have one there for her tomorrow. I said I would go to the library and try to give her an adequate and easy to go through summation of the laws.

She said she would call in the other operators and give them their say to express their grievances. I said I would really appreciate that and ask her if she would continue the conversation with Miss Hirschfeld. She said she had no intentions of continuing the conversation because she didn't like

Miss Hirschfeld's

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attitude and I said I didn't know what she meant by a bad attitude, unless she meant somebody challenging her authority.

I told Mrs. Lawton that it was wrong of her not to tell her supervisors of what the rights were. I said it would be better for everyone if the office if we knew what we could and could not do legally.

I then proceeded back to my work place.

Q. Going back to the conversation, were the voices in that conversation loud or quiet? A. They were loud at times, but the conversation for the most time was fairly peaceful.

Q. During that conversation you had, of course, an opportunity to observe Mrs. Lawton? A. Yes, I did.

Q. Could you characterize her demeanor or attitude as compared to other times you spoke to her? A. She was quite tense.

Q. How long would you say this conversation lasted? A. About 20 minutes.

Q. What, if anything, did you observe Mrs. Lawton do after you had this conversation? A. She remained in her office for a bit and then went out to the front desk where she sometimes works.

Q. What time was this when she went to the front desk?

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A. Sometime after 12:00, immediately before lunch hour.

Q. Did Mrs. Lawton have occasion to leave the office? A. Yes.

Q. When was that? A. Around 12:30.

Q. And when did she return? A. Around 1:30.

Q. Did you have any further conversations with Mrs. Lawton on that day? A. No, I didn't.

Q. Did you observe Mrs. Lawton leave the office again that day?

A. Not that I remember.

Q. Did she go home that day? A. Yes, she went home that day.

Q. About what time was that? A. Around 5:00 p.m.

Q. What, if anything, did you do after Mrs. Lawton left on that day?

Did you have any conversations with the other operators? A. Yes, we had a conversation with the part time operators about what had transpired.

I was informed that Mrs. Lawton called Frank to ask him who posted the notice. I made it clear to the

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part time operators that I was going to tell Mrs. Lawton myself. We were warned again that there was a chance of us being fired and we discussed the reaction to the notice, et cetera.

There was also another notice posted by Muriel Hirschfeld on that night.

MR. ROSENBERG: I would like this marked as General Counsel's Exhibit 4 for identification.

(Whereupon the document referred to was marked General Counsel's Exhibit No. 4 for identification.)

Q. I show you what has been marked as General Counsel's Exhibit 4 for identification. It's a Xerox copy of some text; do you recognize it?

A. Yes, I do.

Q. What is it? A. It's a notice that Miss Hirschfeld drew up and posted on the bulletin board Tuesday evening.

Q. Would you say that's an exact copy of the notice she posted?

A. Yes.

Q. Did you see her draw it up? A. Yes.

Q. Did you see her post it? A. Yes.

MR. ROSENBERG: I would like it offered in evidence

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as General Counsel's Exhibit 4.

MR. DIAMOND: No objection.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Received.

(General Counsel's Exhibit No. 4 for identification, was received in evidence.)

Q. What time was this notice posted? A. About 7:00 p.m.

Q. Who observed it being posted? A. I believe that Frank was present again. I'm not really sure about who else was really present on that evening.

Q. Was this posted on the same bulletin board as the previous notice?

A. Yes.

Q. Did anything else happen on January 22? A. Nothing else that I recall at this time.

Q. What time did you leave work? A. 8:00 p.m.

Q. Did Miss Hirschfeld leave with you? A. Yes, she did.

Q. I direct your attention to Wednesday, January 23, 1974. Again, around 11:00 a.m., did you have occasion to meet with Muriel Hirschfeld?

A. Yes.

Q. Where was that?

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A. We met at Chock Full 'O Nuts.

Q. About what time? A. 11:15.

Q. Did you have any conversations with her while at Chock Full 'O Nuts? A. Yes, I did. I told Muriel that it would be a good idea if we went immediately to the library so we could check out a book on the National Labor Management Relations Act.

Q. Did you have any other conversation? A. Once again we talked about the possibility of being fired, we were speculating about that. It was something of great interest to us.

We again reaffirmed that if there was any trouble or any kind of threatening behavior when one of us was in the office handing Mrs. Lawton the book, that the other one would come in and act as a witness.

Q. Do you recall reaching any agreement as to what you would do if the other were actually fired? A. Yes, we reached a specific agreement. That is, if one person was fired, the other person would come in and say that under University policy, the other person had a right to be there as a witness and we again interpreted our right under University policy to see if we could see Miss Lawton's supervisor.

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Q. Was anybody else at Check Full 'O Nuts present during your conversation? A. Well, we had a friend there who works there who heard our conversation, but she was not a part of our conversation.

Q. Did you go to the library? A. Yes.

Q. What did you do in the library? A. We went through the catalog to find a book that I had been given by the UAW called Organizing. This was the business school library.

Q. Did you check out the book you were looking for? A. Yes.

Q. What was the title of that book? A. The National Labor Management Relations Act, it was written in 1974. It's a summation of the Act.

Q. You did check that book out? A. Yes, we did.

Q. And the purpose of checking the book out was to show it to Mrs. Lawton? A. To give it to Mrs. Lawton, I was checking it out for her.

Q. After checking this book out at the library, where did you go?

A. We proceeded to work.

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Q. What time did you arrive? A. About 11:45.

Q. Will you please describe what happened after you got to work that day?

A. We entered the office, went in to the locker room and Mrs. Lawton said to Muriel, "I would like to speak to you in the office."

Muriel went into the locker room and hung up her coat. I said, "Why don't you take the book in since she wants to speak to you."

Muriel said "What do you think it's about?"

I said, "Perhaps she wants to continue her conversation with you."

Muriel said, "Fine, I'll take the book in."

I proceeded then to hang up my coat to get my console out, et cetera.

When I entered the operating room and started to put my phone book down on the desk, I heard Mrs. Lawton say to Muriel, "Yes, you're getting out of my office, or else I'll have to lay my hands on you."

I decided at that time to go in as Muriel's witness. I said that Muriel under University policy is a dual witness. I walked into the office and said to Mrs. Lawton, I said, "Under University policy --" She interrupted me and she said, "Is your name Muriel?"

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I said, "No, it's true." I said, "Under University policy I have a right to be here as a witness, to act as Muriel's witness."

She told me to get out. I went over to a chair to sit down. She said "Get out or I'll knock your teeth down your throat."

I said I wouldn't get out, I was there to act as Muriel's witness.

She then handed me my check and said, "You're fired. You were next anyway."

At that point, we both said we would like to see Mr. McGrady, that it was our right under University policy.

She said to get out because she'll call the police.

I said she can't call the police without calling Mr. Miller because of the ruckus that took place there in 1968.

She said she would call the security guards --

Q. Will you slow down just a little bit? The Reporter's hands can't work that fast. A. I'll slow down.

She said she'll look for a security guard. Betsy Reed called in the security guards herself.

At that time, Muriel and I went to our consoles and sat down and continued to state that we would leave

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the office when we had the opportunity to speak to Mr. McGrady.

Q. Did the security guards arrive? A. Yes.

Q. What happened when they got there? A. Mrs. Lawton was periodically yelling things at us. I don't know what she said. One of the security guards proceeded to Mrs. Lawton and took her by the arm, at which point she said, "Not me, them."

I walked over to that security guard, I said, "Hello, this is a labor management dispute. We are two workers who feel we have been illegally fired and we want to see our boss' supervisor. Under your contract, you don't have to interfere with that dispute."

He said, "We thought the lady over there was a solicitor."

I said, "No, she's not a solicitor. This is a labor management dispute."

He conferred with the other guards with him and they said they didn't want to interfere.

Mrs. Lawton called in other security guards because in a few more moments two or three more security guards arrived.

The first guard I spoke to, spoke to the other guards. They conferred

amongst themselves. They decided

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they did not want to interfere and they called their boss, Mr. Sidlowski.

Q. Did there come a time when Mr. Sidlowski appeared on the scene?

A. Yes, I told him that this was a labor management dispute.

At that time, Muriel and Mrs. Lawton got into a discussion about the actual letter of termination. Muriel was demanding a copy of the letter of termination. Mr. Sidlowski arrived at that time. He entered that dispute and I was talking to another security guard at that point, so I did not hear the conversation, but Mr. Sidlowski did agree to let Muriel see a copy of the letter —

MR. DIAMOND: Excuse me. At this point, I don't know what the witness is testifying to, that she heard, what she was surmising or what she heard —

THE WITNESS: This is what I heard.

A. What I heard Mr. Sidlowski say was, that he agreed that Muriel should have a chance to see the letter.

He said he would take us into the office individually and that Muriel would have a chance to see the letter at that time.

Q. Did Mr. Sidlowski show the letter to Muriel? A. I was not present. She told me that she did.

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MR. DIAMOND: I ask that the last part be stricken. The answer "No" and the latter part of the answer was not responsive.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Stricken.

Q. At some point in time, did Mrs. Hirschfeld tell you that Mr. Sidlowski had shown her the letter? A. Yes.

Q. When was this? A. Mr. Sidlowski excused Muriel and asked to

see me and as we passed each other, she told me.

MR. DIAMOND: Objection as to what Mr. Sidlowski did. Muriel is the best witness as to that.

MR. ROSENBERG: She wasn't testifying as to that.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I'll take it as to what she said, but not as to the truth of it.

Q. I believe you were stating that you had a conversation with Mr. Sidlowski? A. Yes, I did.

Q. Please recount that conversation to us. A. I repeated to Mr. Sidlowski as to what happened in the office and that we wanted to see Mr. McGrady and we had that right under University policy.

I said once we saw him, we would leave the office and continue with our grievance through channels.

Mr. Sidlowski said he would not interfere with us

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once we had had an opportunity to see Mr. McGrady. He said he would go out and tell Mrs. Lawton to call Mr. McGrady.

Q. Did Mr. McGrady come to room 114? A. Yes.

Q. What happened at that time? A. I saw him enter the office. I signaled Muriel to join me in Mrs. Lawton's office.

Mr. McGrady said, "What are you doing here, Dru?"

And I said, "I have been fired for acting as Muriel's witness."

He said, "What are you doing here now" and I said, "I would like to review with you what was going on here."

He said, "I would like to speak to you individually", and I said we would like to act as the other's witness. He said I could stay there.

I asked him, "If you're letting me stay here now as Muriel's witness, why on earth have I been fired?"

He said, "You're not fired. You're indefinitely suspended."

Muriel reviewed her case with Mr. McGrady and stated that she felt she had been fired for organizing employees.

He said he couldn't do anything about her case

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because she was a probationary employee.

Mr. McGrady - Muriel said that Mr. McGrady was racially prejudiced and he said he hired in the first black operator. He said he could do nothing about her firing, that mine was reversed until he had a chance to clarify the circumstances with Mrs. Lawton and he informed us that we at this point, could proceed to the personnel office to file a grievance.

We agreed that that's what we would do and left the office.

Q. What time did you leave the office? A. It must have been after 12:00 - it was quite a while. It must have been after 1:00.

Q. Did there come a time when you and Muriel went to the personnel office? A. Yes.

Q. When was that? A. We went to the personnel office at about 2:00 p.m.

Q. Whom did you see in the personnel office? A. I do not know the woman's name. She's one of the women in charge of doing the interviews in the personnel office.

Q. Do you see her present in the room today? A. No, I do not.

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Q. Who went with you other than Muriel? Was anyone else with you when you went to - A. Yes, I asked my fiance to come with us to act as a witness.

Q. Did you have any conversations with the woman at personnel?
A. Yes, we did.

Q. Will you please relate those conversations? A. We repeated why we felt we had been unfairly fired. We repeated the events of January 21 and January 22. She took down this information, told us that this constituted an official University grievance, that the next step in the grievance procedure would be to set up a meeting with the director of personnel.

She asked us if we wanted to do that, and we said we did.

She called Mr. McKeever, director of personnel and set up a meeting for the next morning.

Q. Did you meet with Mr. McKeever the next day? A. Yes, we did.

Q. Did you meet with him alone? A. No, we did not. Once again we had a discussion about the right to have a witness.

Mr. McKeever told us that the University grievance procedure had been rewritten since that book.

We asked to see a Xerox copy of that procedure. That procedure also said that we had a right to have a witness in all three steps.

Mr. McKeever granted us the right to act as each other's witness or to have one witness each from outside; we chose to have one with each from outside.

Q. Who were the witnesses? A. Muriel's witness was a woman by the name of Debbie Bell and my witness was a woman by the name of Margie, I don't know her last name.

Q. Will you tell us what transpired during your meeting with Mr. McKeever? A. Yes. We repeated once again, our case, and we felt we had been illegally fired for organizing.

Mr. McKeever listened to our case and at one point during the case, he said how he felt about a human being about the matter. He said he would review the matter and get back to us.

Q. How long would you say the conversation took? A. About 45 minutes each.

Q. When did they end? A. About 2:30 p.m.

Q. Who had the first interview? A. Muriel and Debbie Bell had the first interview.

Q. And yours followed?

[44]

A. Yes, it did.

Q. I believe you stated that Mr. McKeever made a personal remark.

A. He stepped out of context as personnel director and he made a remark that I had hurt Mrs. Lawton's feelings and wasn't I ashamed of myself.

I told him I would like it if he stepped back into his role as personnel director.

Q. Did he step back into his role? A. Yes, he did.

Q. Where did you go after this interview with Mr. McKeever? A. We talked again about our case. We decided to put out a leaflet about being fired --

Q. When you say we talked -- A. Muriel and myself, Greg DeFreites, my fiance and several secretaries with whom we had contact.

Q. After this meeting, did anyone from the University communicate with you to inform you about the decision which the grievance procedure resulted in? A. Mr. McKeever asked me to call Mr. McGrady Friday morning.

Q. Did you call Mr. McGrady? A. Yes, I did call Mr. McGrady.

Q. Will you please reconstruct the conversation for us?

[45]

A. Mr. McGrady read a letter to me over the telephone saying to me that I had been reinstated, but that my suspension had been upheld and was to be

viewed as a final warning. The letter also had a remark in it and said that any further action that could be felt to be provoking by my supervisor would result in my termination.

I told Mr. McGrady that I could not act until I got a written copy of the letter stating under what conditions that I was to be employed, since they could say one thing and do another.

He said he would send me a copy of the letter.

Q. Did you receive the letter? A. Yes.

Q. When was that? A. Tuesday morning.

MR. ROSENBERG: I would like this marked as General Counsel's Exhibit 5 for identification.

(Whereupon the document referred to was marked General Counsel's Exhibit No. 5 for identification.)

MR. ROSENBERG: Your Honor, I believe we have a stipulation into the record as to the admissibility of that letter.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: That's right.

Q. I show you this letter which has been marked General Counsel's Exhibit 5 for identification, and ask you

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if that's a copy of the letter which you received on Tuesday? A. Yes, this is a copy of the letter that I received on Tuesday.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: It's received.

(General Counsel's Exhibit No. 5 for identification, was received in evidence.)

Q. I believe you stated you received this letter on Tuesday. What time on Tuesday did you receive this letter? A. I took it out of my mailbox at about 11:30 a.m.

Q. After reading this letter, did you have any further conversations

with anybody from Columbia University? A. Yes. I don't believe I had that conversation that day because I wanted to think about it and speak to a friend of mine who is a lawyer about it and I believe I called Mr. McGrady the following morning, Wednesday morning and told him that I could not accept the conditions under which they gave me my job back.

I asked for unconditional reinstatement. I discussed with him what I thought was an inconsistency in the University grievance procedure, since Mr. McGrady allowed me a witness, since Mr. McKeever allowed me a witness, why was it interfering asking for a witness in

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the first step.

Mr. McGrady told me he couldn't do anything about the letter, it was out of his hands at that point. He told me he could not accept that.

We had a brief discussion about how we were sorry that things had to happen that way and I told him that I would file an NLRB charge on behalf of Muriel and myself.

Q. Did you receive any other communications from Columbia University? A. Yes, Mr. McGrady called me again, reading me a second letter over the phone, stating to me that since I had not returned to work, it was considered that I had resigned.

Q. When did he call you and read you this letter? A. I don't know what time it was. He told me that I had lost my wallet and that he had found it.

Q. Did you subsequently receive this letter in the mail? A. Yes, I did.

MR. ROSENBERG: I would like this marked as General Counsel's Exhibit 6 for identification.

(Whereupon the document referred to was marked General Counsel's Exhibit No. 6 for identification.)

Q. I show you what has been marked as General Counsel's

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Exhibit 6 for identification. It's a Xerox copy of a letter. Is that the copy of the letter that you received in the mail from Mr. McGrady since the last telephone conversation? A. Yes, this is what I received.

MR. ROSENBERG: I ask that it be received in evidence. We have a stipulation to this also.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Received.

(General Counsel's Exhibit No. 6 for identification, was received in evidence.)

Q. After receiving this letter, did you have any further communications with officers or agents of Columbia University? A. No, I did not.

* * * * *

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CROSS EXAMINATION

BY MR. DIAMOND

Q. You testified that you began work on November 19, isn't that date really November 12? A. I don't believe so. I'm not exactly certain when I started.

Q. It could be the 12th? A. That's a possibility.

Q. You testified that someone told you that you better be careful because there has been a lot of firings? A. That's right.

Q. Who told you that? A. Christopher Wells and Marian Lloyd

Q. They both told you that? A. Yes, they did.

Q. When was Marian Lloyd working? A. 9:00 to 5:00.

Q. And when does Christopher Wells work? A. 5:00 until sometime after 8:00.

Q. Did they both tell you this at the same time? A. No, they did not.

Q. And they both said the same thing, though? A. Marian simply made that remark. Chris told me a story about a part time operator who had given a boss, Anna Johns, some trouble. I did not know the part time

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operator or Anna Johns.

Q. Since you had been hired, was anyone ever fired? A. No.

Q. Did you ask Marian Lloyd what she meant when she said other people had been fired? A. I did not.

Q. Do you know how long Mrs. Lawton had been supervisor? A. Three months.

Q. Do you know if she ever fired anyone? A. Not in that time.

Q. What was your concern about Mrs. Lawton firing you? What gave you that feeling? A. I believe what I said in my testimony was somewhat opposite to that.

Up until the final day, I was optimistic that the grievances could be resolved. I simply stated that we wished to be prepared in the event anyone was fired and I also specifically used the words, any trouble or any threatening situations. I did not specify firing.

Q. Why were you concerned about trouble or threatening situations?

A. It's best to be prepared.

Q. That's the only reason? A. And also because many of the

operators felt in-

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timidated and nervous and they said we should be prepared.

Q. Who was that? A. I said Christopher Wells told me the story about a part time operator and Anna Johns. I told you that Marian Lloyd -

Q. That was before Mrs. Lawton was a supervisor? A. That's right. I told you that Miss Lloyd told me about the firings. At the time Mr. Rosenberg was questioning me, I mentioned the time about when we were talking about forming a grievance committee that we were told to be careful and I was told by the part time operators Frank and Morris to be careful.

Q. Were they telling you about Mrs. Lawton? A. Yes.

Q. What was the reason? A. Because they had known her for a long time.

Q. Is that the only reason they gave you? A. Yes.

Q. Didn't Marian Lloyd tell you -- what she actually told you is that you should be careful because you were sick and that you are still a probationary employee? A. No, she didn't tell me that.

Q. She never told you that? A. No, not that I remember. She told me I should be

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careful because I had been warned about being sick.

Q. She told you to be careful because you were sick? A. That I had been sick.

Q. But she never told you that you were a probationary employee? A. No.

Q. What happened during that conversation on the 21st when Mrs. Lawton went out to lunch, what was said? A. What specifically do you mean?

Q. What did you say to the employees and what specific employees said what to you? A. As I said, I initiated the conversation saying that I do not understand the policy that Mrs. Lawton had just finished telling Muriel and myself. I was told at that time by Gwen that I shouldn't be upset about it. I was upset about it since I didn't understand. That I should

just continue to do what I felt best, that the office was run by Mrs. Lawton's moods and not by any system.

Q. Who told you that? A. Gwen.

Q. What else? A. Muriel at that point, also said that she did not fully understand what we were supposed to do. She felt what she did understand was not the best service to the

[53]

customer and that she felt we had to do something to speak up against other unfair rules that people had spoken to us about.

Barbara Joyce said at that point, that she was a grown woman, as I said in my earlier testimony, she had been an operator for a good many years, and she didn't have to be told when to say please and thank you.

Q. You formed the grievance committee at that time? A. Yes.

Q. Is there any reason you remember more of the conversation now than when you gave the Board agent your affidavit? A. Certainly there is. At the time I gave the affidavit, I was simply recalling as best as I could and responding to Mr. Reisinger's questions. There were certain areas that Mr. Reisinger did not ask me about at that time.

Q. But he did ask you about that conversation? A. Very little about it. We didn't go into great depth about who said what.

Q. You told him who said what, didn't you? You told him what Marian Lloyd said? A. He asked me specifically if anybody had warned me about the possibility of termination.

Q. He didn't ask you what else happened at that con-

[54]

versation? A. No, he didn't ask me who all was involved in the conversation and every comment that was made. Mr. Rosenberg subsequently asked me that conversation.

Q. Isn't that -- didn't you tell Mr. Reisinger that that was all you remembered about the conversation? A. That was all I remembered at that time.

Q. Was everybody told about this new change in policy, about answering busy signals and giving out phone numbers? A. Everybody?

Q. On Monday. A. The people who were in the office. I mentioned several specific remarks. Those were the remarks that were made.

Q. Mrs. Lawton told everyone in the office before you came about this new procedure, about answering busy signals and giving out phone numbers? A. I imagine so.

Q. They discussed it with you when Mrs. Lawton went out to lunch? A. Yes.

Q. So everyone was told? A. I said I initiated the conversation and said what Mrs. Lawton said to me.

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Q. Did the others indicate that Mrs. Lawton had said that to them? A. No, they didn't indicate that.

Q. You were the only ones that were going to use this new procedure? A. They didn't indicate that Mrs. Lawton said anything to them. I told them I initiated the conversation.

Q. Muriel said she didn't understand the new procedure, did anyone attempt to explain it to her? A. I said I didn't understand the procedure.

Q. Did anyone attempt to explain it to you? A. As I repeated, the only remarks --

Q. I'm just asking you if anybody attempted to explain the new procedure to you? A. No.

Q. Thank you.

Did anybody else discuss the new procedure other than you and Muriel? A. As I said, Muriel --

Q. Yes or no. A. Yes.

Q. Who else? A. Barbara Joyce said that I am a grown woman. I have been an operator for a good many years and I don't need to be told when to say please and thank you.

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Q. But she may have been discussing general procedures in the office?

A. She was discussing pretty specifically when to say please and thank you.

Q. I'm talking about the two things Mrs. Lawton told you on Monday, you stated that Mrs. Lawton told you and Muriel about answering busy signals and about giving out phone numbers. Did any of the employees that you had a conversation with in the afternoon on the 21st, mention that they had also been told about those procedures? A. No, they did not.

Q. Did anyone try to help you when you said you did not understand —

MR. ROSENBERG: Your Honor, I must object. This is getting argumentative.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled. Go ahead.

Q. Did anybody volunteer any information on what the new procedures were? A. I was told by Gwen to ignore them.

Q. She specifically told you to ignore them? A. To use my best judgment, yes.

Q. Did she say she was ignoring the new procedures? A. Yes, she said she used her best judgment.

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Q. Did she specifically say she was ignoring the new procedures that you had been told that day? A. She didn't say she was ignoring the procedures that you and Muriel had been told, she said this office is run by Mrs. Lawton's rules —

Q. I didn't ask you that.

You said you were upset about the continuing change of policy. How many times had the policy been changed? A. I had been trained to say "Hold" when the line was busy.

Q. Excuse me. A. If you called me up -

Q. I wish you would just answer the question. A. I am.

Q. You are not. I asked you how many times the policy had been changed? A. Three times.

Q. Three times since November 1? - A. Three times on that specific rule.

Q. Did Mrs. Lawton on all occasions call you in to her office to explain the new procedure? A. Yes.

Q. Was anybody else with you on the prior two occasions?

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A. No.

Q. Where was Muriel? A. The first time she wasn't hired.

Q. What about the second time? A. The second time I was again told privately and that was about saying "Hold".

Q. Do you know if any of the other employees were told about it?

A. I don't know.

Q. So, as far as you know, you're the only one who was told about these procedures? A. As far as I know.

Q. Do you know when the first change came about? A. The first change is what I'm counting as my training.

Q. When was the second change? A. About a month later.

Q. Sometime in December? A. Yes.

Q. What was that change? A. To say "Will you please wait?", as opposed to "Hold".

Q. The third change? A. The time that I mentioned when Muriel and I were called in together.

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Q. Were there any other changes in policy? A. About half way through the time that I was employed, we were given a series of 9 rules written down on paper.

Q. Were those 9 rules new rules? A. Some of them were.

Q. How many of the rules were new rules? A. I'm unable to give you specific information since I myself was a new employee.

Q. Are these the 9 rules you were referring to?

MR. ROSENBERG: May I see those, Mr. Diamond?

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Mr. Diamond, show them to Mr. Rosenberg.

MR. ROSENBERG: Thank you.

Q. Were those the 9 rules you are referring to? A. Yes, they are.

Q. When were you given them? A. I don't remember the exact date.

Q. Was it when you were first hired? A. No.

Q. Was it during your training period? A. No.

Q. Was it much after? A. Some time after. I would say probably a month after the date I was hired.

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Q. Somewhere around December 19? A. About that.

Q. How many rules in there were different from the rules that you had known during your training period? A. There had never been any mention prior to that time as to how long a call should last.

Q. What else was there? A. That's all that I specifically remember at this time.

Q. So you told us about two changes of policy, one was about holding when a line is busy, and the other is how long to wait on a call. Any other changes that upset you? A. No. How long to wait on a call, the rule that we were objecting to on January 21 was —

Q. What to say, what the procedure was. A. Right.

Q. Any other rules that upset you, the constant changing of policy?

A. People were upset —

Q. I asked about you. A. About me?

Q. Yes. You said you were upset about the constantly changing policies. What other policies were you upset about?

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A. The policies that I stated.

Q. How long was Betsy Ross there on the afternoon of January 21?

A. I don't know any Betsy Ross. It's Betsy Reed.

Q. How long was Betsy Reed there? A. I believe, I'm not sure, that Betsy Reed was there from 12:30 on.

Q. Was she there for part of the discussion? A. Part of the conversation.

Q. Did she say anything? A. Not that I recall.

Q. Was she close enough to hear what you were saying? A. Betsy Reed has a desk about as far away as that door. I don't know what she was able to hear.

Q. She did not say anything? A. No.

Q. Was this conversation interrupted at all, the conversation about forming a grievance committee? A. Constantly.

Q. Did all of the employees take part at the same time, or were some on the console and some sitting around and doing nothing? A. Some on the console.

Q. Did all the employees there other than Betsy Reed take part of the conversation?

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A. Yes, they did.

Q. You said that Gwen said that she didn't follow the procedure. Didn't she specifically say that about raising her hand to go to the bathroom?

A. She made that remark immediately in response to my saying that I didn't understand the policies that Mrs. Lawton laid down this morning. That I didn't understand what to do when the line was busy.

Q. On January 21, when you went out to Chock Full 'O Nuts with Muriel, you were already concerned that if a situation developed that one would be a witness for the other. What were you concerned about? Nothing had happened at that point. A. I didn't say that I was concerned. Muriel and I had made the decision -- are you saying that I said that at 11:15?

Q. No, at about 3:00 o'clock. A. Yes. We had summed up the discussion that went on in the office and we decided we were going to take some form of action. We discussed a grievance committee and a meeting with the operator. It's always my policy that whenever workers take action, they should cover themselves as much as possible. Because of situations that develop like this in court, that they should have witnesses.

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Q. Have you had a lot of situations like this? A. Not a lot, but one other unfair labor practice.

Q. Where was that? A. In California.

Q. Were you preparing a book on organizing? A. We were preparing a leaflet on the right to organize, yes, we were.

Q. Did you ever have discussions with Mrs. Lawton about the union?

A. Yes, I did.

Q. When was that? A. Sometime in December, I believe.

Q. And did Mrs. Lawton ever take any action against you because of those discussions? A. No, she did not.

MR. ROSENBERG: This is going beyond the scope of the direct, your Honor.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Yes, it is, but I'm going to allow it.

Q. When was the grievance committee actually formed? A. The grievance committee was in the process of being formed. We hoped that possibly —

Q. Who is we? A. We was myself and Muriel hoped that by having a meeting with all the operators, perhaps we could resolve

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the grievances that way.

Q. Were the other operators informed that there was a grievance committee? A. They were informed that we thought it was a good idea and we asked them about it.

Q. Did they designate you and Muriel as their spokesman? A. We said we would be willing to do it and they said it was all right with them.

Q. Who said that? A. Barbara Joyce, Marian and Gwen.

Q. Whatever happened to the book that Muriel brought in to Mrs. Lawton on the 23rd? A. She didn't take it. Muriel handed it to me.

Q. When was that? A. When I was handed my check and asked to see Mr. McGrady when I was sitting in the chair.

Q. So you were holding a book all that time? A. Yes.

Q. Are you certain that Morris Dunlop was there on the evening of January 21st? A. Yes, to the best of my knowledge, Morris was there.

Q. You spoke to him, didn't you? A. Yes.

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Q. So, he must have been there? A. To the best of my recollection.

Q. And what about Frank — Frank Dobbins — A. To the best of my recollection, he was there.

Q. And you spoke to him on the 21st? A. Yes.

Q. Is there any supervisor during the period after 6:00 o'clock? A. Frank had always acted as the supervisor.

Q. The bulletin board, did you ever put up any notices other than the ones that are in evidence at this point? A. No, I did not.

Q. Did you ever see any other employees put up any personal notices?
A. Yes, I did.

Q. Who did you see do that? A. Everyone put up Christmas cards at Christmastime.

Q. Other than Christmas cards? A. There was a cartoon posted.

Q. Who put that up? A. I don't know.

Q. When was it up? A. It was up when I arrived at 11:45 at work.

Q. That day?

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A. Not January 21, the week prior to that.

Q. How long was that up on the bulletin board? A. It was up when I was fired and it had been up for about a week.

Q. How long had it been up? A. It was a Ching Chow fancy cartoon saying in effect to mind your own business because people in the office don't mind their own business.

Q. What did the cartoon say? A. To the best of my recollection, that's what it said.

Q. Did anyone else put up any notices? A. Not that I remember.

Q. It was usually -- the part time schedule was usually on that bulletin board, official University notices were on that bulletin board? A. That's right.

Q. Were the part time employees informed of the new rules and regulations on that evening, January 21? A. The rules and regulations?

Q. The two new rules that Mrs. Lawton had -- A. Not that I know of.

Q. Was there not a discussion concerning the new rules and regulations? A. There was.

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Q. It was you and Muriel who led the discussion? A. Yes.

Q. Did the employees say they knew about the new rules? A. They said they hadn't been informed by Mrs. Lawton of those two changes.

Q. Did the other employees help you draw up the notice that is identified as General Counsel's Exhibit 2? A. They made suggestions.

Q. What suggestions did they make? A. I cannot recall the exact words that the various people suggested at this point in time.

Q. Who said that they didn't want the notice to degrade Mrs. Lawton? A. I believe Muriel Hirschfeld said that.

Q. Did she give you an opinion as to why she changed that opinion when she put up the notice the next night?

MR. ROSENBERG: Objection, your Honor, there's no indication that she changed her opinion.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Q. Why were you afraid that the notice would be torn down? A. I wasn't.

Q. Didn't you say you made a copy because you thought

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the notice might be torn down? A. Again, better to be safe than sorry.

Q. Had anything ever been said to give you an indication that you should better be safe than sorry? A. My previous work experience.

Q. Nothing that Mrs. Lawton said or nothing? A. No, sir.

Q. Who told you that Mrs. Lawton took down the notice that you had placed on the bulletin board? A. Roxanna Brandao.

Q. Did she say she saw Mrs. Lawton take down the notice? A. Yes, she did.

Q. She said she saw Mrs. Lawton take down the notice? A. That's what I was informed of.

Q. Who is Roxanna Brandao? A. She was the telephone operator at Columbia University, she's now the assistant boss.

Q. When did you speak to Miss Brandao? A. As I walked in to the locker room.

Q. What time was that on the 22nd? A. Between 11:30 and 12:00.

Q. Where was she? A. Sitting at the break table.

Q. What were her words as best you can recall?

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A. I asked her, "Did you see the notice?"

She said, "Yes, I did." I said, "It's not there now." She said, "Mrs. Lawton tore it down."

I said, "How long ago?"

She said, "Just a bit before you came in."

Q. Did you accuse Mrs. Lawton of taking down the notice? A. I didn't accuse her of taking down the notice. I told her it was illegal for her to take it down.

Q. Did she admit to taking down the notice? A. She didn't say

whether she had taken it down or not.

Q. I believe on direct testimony you said Mrs. Lawton talked about plots against her. Did she talk about plots against her on just that day or on other days? A. Other days.

Q. Who did she talk to about plots against her? A. She said it in a meeting of part time workers.

Q. Who told you that? A. Christopher Wells.

Q. Anyone else? A. No.

Q. He said on one occasion she said that? A. No. Christopher Wells said it that night about the part time operators' meeting that Mrs. Lawton had

[70]

mentioned the plot.

Q. When was that meeting? A. I'm not exactly certain when it was. It was when the rules were drawn up.

Q. What did Mr. Wells actually say that Mrs. Lawton said? A. I don't remember the exact words. He was quite upset about the rules and he refused to sign them --

Q. Excuse me, we're talking about a meeting that Mrs. Lawton had with the part timers at which meeting Mr. Wells told you that she was talking about a plot against her. A. Yes.

Q. Did Mr. Wells tell you when that meeting took place? A. No.

Q. When did he tell you about the meeting? A. I was sitting at the console when the meeting took place.

Q. When was the meeting? A. It was after 5:00. What day it was, I don't remember.

Q. When did Mr. Wells tell you about this? A. After Mrs. Lawton left.

Q. On the same day of the meeting?

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A. Yes.

Q. Was it a week before the 23rd? A. I don't remember.

Q. Does Mrs. Lawton usually have meetings with part timers that you are not included in? A. Yes, since I'm not a part timer.

Q. Where does she hold these meetings? A. She held that one in her office.

Q. Was there any other word or any other conversation that you had with anyone where they told you about Mrs. Lawton being afraid of plots against her? A. Yes, one other time.

Q. When was the other time? A. The other time was, I was told it by Gwen and there was a time when Mrs. Lawton had gotten angry at me for knocking twice at the door, I don't remember the date -

Q. Excuse me - A. I'm telling you the incident.

Q. Gwen told you about a plot that Mrs. Lawton mentioned that there was a plot against her? A. I don't remember the date.

Q. When did Gwen tell you about it? A. She told me the day that I was reprimanded for knocking twice at the door.

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Q. When was that? A. I don't remember the day.

Q. You don't remember the day you knocked twice? A. No.

Q. Was it before or after Christopher Wells told you about the plot talk? A. It was after the part timers' meeting.

Q. Was there any other time - A. No.

Q. Did Mrs. Lawton talk about any plot on January 22nd? A. Yes.

Q. What did she say about plots on January 22nd? A. She said she knew that we had been plotting against her.

Q. Did she say how she knew or what she meant by that? A. No, she didn't.

Q. Did you say anything? A. I said that I thought that was wrong in light of the fact that Muriel and I were honestly bringing our grievances to her.

Q. You mentioned in your direct testimony that you were going to bring the charges for your illegal discharge. Did you personally bring the charges?

[73]

A. We went to District 65 and asked them if they would file them for us.

Q. At that time, you also felt that you had been discharged because of union activities? A. No.

Q. And the 8(a)(3) charge was District 65's idea?

MR. ROSENBERG: Objection. This witness has no idea as to District 65's ideas in filing the charge.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Q. Did you discuss any 8(a)(3) aspects with District 65? A. Yes.

Q. Then you felt there was some type of — A. No, I didn't. There was some point of contention about that. I felt it would be proper for this charge to be filed as an 8(a)(1) charge.

Q. So they filed it over your objections? A. Apparently they did.

Q. When did you mention to the Region, anyone from the Region, about taking out the book? It's not in your affidavit. When did you first mention that? A. I believe I told Mr. Reisinger on that day.

Q. Did you ever question him as to why he left it out of your affidavit? A. No.

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Q. Why did Muriel decide to see Mrs. Lawton at 5:00 on January —

was it the 21st or the 22nd? A. It was the 21st.

Q. What made her go at that point to Mrs. Lawton? A. She felt she had been unfairly reprimanded.

Q. Is that what she told you? A. All she told me at that time was "That I'm going in to see Mrs. Lawton."

* * * * *

[75]

Q. Were you the only one in the office? A. Christopher Wells came in at that time.

Q. Was Mr. Wells sitting at a console at that time? A. At the first console.

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Q. In the same row as yours? A. Yes.

Q. Did he say anything to you about the shouting that was going on?

A. Not at that time. He gave me a look. He didn't say anything.

Q. Did you hear the entire conversation? A. No, I did not.

Q. What were you able to hear? A. I heard Muriel's opening remarks that she thought some rules were unfair and was trying to object to them honestly.

Q. Did she say she felt they were unfair, or that the employees felt they were unfair? A. She said and us.

Q. I feel those rules are wrong and us felt those rules are wrong?

A. I'm not sure of the exact wording.

Q. What did you hear? A. I believe --

Q. I want to know what you heard. A. All I can tell you is what I recollect.

Q. What do you recollect? A. I recollect that Muriel said that certain rules and inconsistencies in policy were bothering us and she

[77]

wanted to bring them to Mrs. Lawton's attention honestly.

Q. So she said "us"? A. Yes.

Q. Did you hear Mrs. Lawton's response? A. Not at that time, I didn't.

Q. You said that was the beginning of the conversation. A. I heard Muriel's remark at the beginning.

Q. Is there any reason why you told the Board agent that you did not hear the beginning of the conversation? A. I must have recollected differently.

Q. Is that the first thing you heard? A. Yes.

Q. Again, your recollection is better now than when you gave the affidavit to the Board agent? A. If you say so.

Q. I'm not saying so. I'm asking you. A. I have reviewed the events of those days many times in the preceding months.

MR. ROSENBERG: Where are you on the affidavit?

MR. DIAMOND: Page 3.

Q. Was Muriel shouting when she went in? A. No, she was not.

Q. She was talking in a normal voice? A. A bit louder than normal.

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Q. What was the first thing you heard Mrs. Lawton say? A. "I don't like your attitude."

Q. When did she say that, in the beginning of the conversation, toward the middle? A. Toward the beginning.

Q. Was that in response to what Muriel had said to her? A. I couldn't honestly state what it was in response to.

Q. Why did you hear that, was Mrs. Lawton shouting at the time? A. She speaks in a louder voice than Muriel.

Q. If you heard Muriel, you should have heard everything that Muriel said, shouldn't you have? A. I was interrupted by calls, I couldn't hear everything.

Q. Did Muriel ever say I'm trying to tell you what rules I think are unfair? A. Not that I heard.

Q. Again, when you said that to the Board agent, you were misquoted or your recollection is now better? A. Apparently so.

MR. ROSENBERG: Your Honor, if Mr. Diamond is going to cross examine the witness on the basis of her

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testimony and the affidavit, I think she had better look at the affidavit so she can examine it prior to answering the questions.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: At least she should see as to what she has now testified to differently or left out.

Q. I ask you to read the fourth line down, where it says "Muriel said."

Did Muriel say that, or did she not say that? Read it out loud. A. "I'm trying to tell you what rules I think are unfair and do it an honest way."

Q. Did she say that, or did she not say that? A. As I said, that's not what I recollect her as saying. It has been many months.

Q. And on the second line of page 3, could you read that out loud also? A. "I heard Mrs. Lawton say I don't like your attitude."

Q. No, the second line. A. "I did not hear the beginning of the conversation."

Q. And now you are saying your recollection is better now than it was when you gave that statement to the Board agent? A. I'm saying that I heard Muriel make a remark very

[80]

soon after —

Q. I'm asking you the statement that you said you heard the beginning of the conversation, during your testimony here is more correct than in the affidavit? A. Yes.

* * * * *

[81]

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BY MR. DIAMOND

Q. Miss Cornell, I believe you testified that on the night of January 21, Mrs. Lawton asked Muriel Hirschfeld to go over to another console? A. That's correct.

Q. And at that point, Muriel then went up, threw something in the wastepaper basket and went into the locker room? A. That's correct.

Q. Has she asked permission to leave the console? A. She did not.

Q. What was the reason Mrs. Lawton asked her to move to another console? A. Because the other operators had left.

Q. Was anybody else there? A. Myself, Mrs. Lawton and Muriel.

Q. So, the other operator had left? A. Yes.

Q. What did Muriel do after she came back from the locker room? A. She sat down at her console.

Q. Then what happened? A. Mrs. Lawton made the remark that Muriel shouldn't

[82]

sashay around the room.

Q. Did Mrs. Lawton say that to Muriel? A. Yes.

Q. Over at the console that she had moved to? A. Yes.

Q. What else happened? A. Mrs. Lawton went in to her office

Muriel said to me, "I'm going to talk to Mrs. Lawton now" and I said to Muriel, "I'll back you up."

Q. Why did you say "I'll back you up"? A. Because I intended to back Muriel up.

Q. What did you mean by back her up? A. Muriel was going in to speak to Mrs. Lawton, I assumed, according to our lunchtime agreement to speak to Mrs. Lawton at that time about our grievances, not just about the sashaying incident.

Q. That's what you thought, Muriel didn't tell you? A. Right, that's what I assumed.

Q. You were going to back up Muriel with moral support? A. We had agreed that if, whoever went in first, the other one of us would go in first and say that that person had not just been speaking for themselves but they were speaking for what they thought were general grievances in the office.

[83]

Q. Didn't Muriel go in immediately and say she was speaking for everyone and not for herself? A. Right.

Q. Why did you have to make plans to go in later and say that Muriel was speaking for all of us? A. Just to strengthen the point.

Q. Did you do it then? A. The next morning.

Q. Not that evening? A. No.

Q. What did you say the next morning? A. To whom?

Q. Mrs. Lawton. A. The next morning I informed Mrs. Lawton that it had been illegal to tear down the notice that we had posted on the bulletin board the previous night and that Muriel and I were responsible for writing the notice and posting it on the bulletin board. That's the way I opened the conversation.

Do you wish me to go on?

Q. Yes. A. At that time, Mrs. Lawton and I got into a discussion about whether or not we had a right to post a notice on the bulletin board and asked me why I had not come to her personally with my grievances. And I responded

[84]

that when Muriel went in the night before, she was speaking for me also and we did not feel that that got anywhere and I was in there now to say that I reaffirmed Muriel's grievances and complaints and I felt that these were things shared by many people and that it would be a good idea if Mrs. Lawton called a meeting of all the operators so we had a chance to discuss --

Q. Excuse me. You then told Mrs. Lawton that you agreed with Muriel; is that right? A. I said I agreed with the remarks Muriel had made about the grievances in the office.

Q. You did not tell her that she was speaking for everyone in the office, that Muriel the night before had spoken for everyone concerning the problems that Muriel felt were in the office? A. No. I said to Mrs. Lawton --

Q. Did you say that, yes or no?

MR. ROSENBERG: Why don't you let her finish.

Q. Answer yes or no.

THE WITNESS: Your Honor?

ADMINISTRATIVE LAW JUDGE FRIEDMAN: It may be a yes or no question, but I think she has a right to explain it.

THE WITNESS: I was going to ask if I could explain it.

[85]

A. What I said was this. I agreed with what Muriel had said to Mrs. Lawton. Muriel had made it clear to Mrs. Lawton that she was speaking for all of us.

Q. Did you hear Muriel say that? A. I heard Muriel say she was speaking for us.

Q. At what time did you have the discussion with the employees on January 21, with the daytime employees? A. After Mrs. Lawton went on her lunch hour.

Q. Which was approximately what time? A. Between 12:30 and 1:00.

Q. Between 12:30 and 1:00 you had it, or did it begin sometime between 12:30 and 1:00? A. It began between 12:30 and 1:00.

Q. What time did it end? A. I don't remember the exact time that it ended.

Q. Well, how long did you discuss the problems in the office? A. About 20 minutes on and off.

Q. Was there any consensus arrived at at that meeting? A. Yes, there was.

Q. What was it? A. That one of us, meaning Muriel and myself, would go into Mrs. Lawton and speak to her about the feelings that we had felt had been summed up in that discussion.

Q. How was that consensus arrived at?

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A. We made it clear to the people that we would go in. We were told that that was a very good idea, but just be careful, don't be rude or in any way --

Q. That's what the people said? A. Yes.

Q. Those people were Barbara Joyce, Marian, Roxanna and Betsy Reed? A. Yes.

Q. Did you ever return that book? A. No, I didn't.

Q. It's overdue now? A. It certainly is.

Q. Did you tell the night crew on January 21 about the conversation Muriel had with Mrs. Lawton at 5:00 o'clock? A. Yes, we did.

Q. Did Mr. Morris tell you anything, or Morris — A. Mr. Morris particularly said to be careful because we were still on probation.

Q. Were you still on probation? A. I wasn't on probation, but I had not been told at that time that I wasn't.

Q. You're told when your off probation? A. Yes.

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Q. What time did you get to work on January 23? A. 11.45.

Q. Did you arrive at work with Muriel? A. Yes, I did.

Q. What happened when you got to work?

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A. We entered the office, proceeded to the locker room. Mrs. Lawton asked to see Muriel when we passed the front desk where she sometimes sits.

Muriel agreed. Muriel proceeded to the locker room with me to hang up the coats. I said to Muriel, "Since she wants to see you, why don't you take in the book" and I gave her the book.

Muriel said, "What do you think it's about?" I said, "Perhaps it's a continuation of the discussion that you had with her Monday night, let's hope so."

Q. When did you first mention the book to the National Labor Relations Board? A. I really don't remember.

Q. And then what happened? A. I proceeded out of the locker room. When I arrived at my console, I heard Mrs. Lawton yell to Muriel, "Get out of here, or else I'll have to lay my hands on you" and then I proceeded in to Mrs. Lawton's office.

Q. How long was Muriel in the office? A. A very short time,

about 30 seconds, long enough for me to hang my coat up.

Q. You were hanging your coat up at the time Muriel went in to Mrs. Lawton's office? A. Yes.

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Q. And you then went in to Mrs. Lawton's office? A. That's right.

Q. Were you then walking out of the locker room at that time? A. I was walking out of the locker room, standing at my console, standing holding my headset --

Q. Which one was that? A. The first one in the second row.

Q. Closest to the door? A. Yes.

Q. Who else was there that day? What other operators? A. I only specifically remember Marian. I know Barbara and Roxanna at that time were out to lunch. I remember their absence.

Q. Anyone else? A. Not that I remember.

Q. And you went in -- what did you say when you went in to Mrs. Lawton's office? A. What did I say on my way in?

Q. Yes. A. I said to Marian, "Muriel is due a witness".

Q. "Muriel is due a witness"? A. That's right.

Q. Then what happened? A. I proceeded in to Mrs. Lawton's office and I said

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that under University policy -- and she asked me if my name was Muriel.

Q. Isn't it true that you came in and said if Muriel is fired, you will have to fire me too? A. No.

Q. Didn't you make that statement? A. No.

Q. Didn't you tell Mr. McKeever at the grievance conference that you ran in because you felt Muriel may be in physical danger? A. Yes, I did, I said that.

Q. And you didn't tell him that you were going to be a witness, did you? A. Yes, I told him that under University policy --

Q. You told that to Mr. McKeever? A. Yes.

Q. Then Mrs. Lawton said "Is your name Muriel?"? A. Yes.

Q. Then what happened? A. I said my name is Dru and under University policy Muriel is entitled to have a witness. I told Mrs. Lawton I wasn't getting out because Muriel has a right to have a witness. Then I sat down in a chair.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Speak a little more slowly, please.

[93]

THE WITNESS: I'm sorry.

A. I sat down in a chair and she told me to get out or else she would knock my teeth down my throat. I said I was not getting out. She said "You're fired. You were next anyway."

And she handed me my termination check.

Q. You said you were next, or did she say in a couple of weeks you would be fired? A. She said "You were next anyway."

Q. Do you want to look at your statement, midway down and read that sentence? A. "She then said you're fired. I was going to fire you in a couple of weeks, but I might as well fire you now."

Q. Is that statement correct, the one that you gave to the Board?

A. I recollect now that Mrs. Lawton said to me "You were next anyway." That's what I recollected when I gave that to the Board.

Q. So your recollection has changed now? A. Yes, it has.

Q. Do you believe your memory is better now than it was back in January? A. I feel the reviews with Mr. Rosenberg and the constant attempt to recollect to the best of my ability

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has brought back to my mind things that I had previously forgotten.

Q. But, of course, this wasn't forgotten, this is a different quote.

Did the security chief refuse to interfere? A. Mr. Sidlowski?

Q. Yes. A. Yes. He said we would not be pulled out of the office until we had a chance to see Mr. McGrady.

Q. Did he say anything else? A. He advised us that as long as we sat quietly, nothing would happen. If we made physical threats to Mrs. Lawton or any other such thing, he would have to pull us out. Otherwise he wouldn't interfere until we had a chance to see Mr. McGrady.

Q. Isn't it true that Muriel said that she thought Mrs. Lawton was discriminating against her? A. Excuse me?

Q. Didn't Muriel tell Mr. McGrady that she thought Mrs. Lawton was discriminating against her? A. I don't recall those words.

Q. Do you recall her telling Mr. McGrady that he was discriminating against her? A. I remember her telling him that he was racially prejudiced.

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Q. When did you first call Mr. McGrady on the phone? A. Friday morning.

Q. Do you know the date? A. Wednesday was the 23rd, Thursday was the 24th, Friday was the 25th.

Q. And what did you ask Mr. McGrady at that time? A. "Am I reinstated?"

Q. And what did he say? A. "Yes, I have a letter to read to you."

Q. Did he ask you if you had received that letter yet? A. He hadn't mailed it yet.

Q. And did you then call him on the 28th? A. I did.

Q. And what did you ask him on the 28? A. I told Mr. McGrady I could not accept the conditions under which Columbia offered me employment and asked him if it was possible for them to hire me back unconditionally and have my record cleared.

Q. What conditions had they hired you under? A. They upheld my suspension as a final warning for interfering. I pointed out to him that that was an

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inconsistency in policy since Mr. McGrady and Mr. McKeever allowed me to remain as witnesses but not in the first step.

I objected to the first part of the letter which said anything of this nature would result in my release.

Q. Did you ask Mr. McGrady what that meant? A. I felt it was self-explanatory.

Q. Did Mr. McGrady say, when you spoke to him on the 25th, that this was a final warning? A. The letter stated that it was a final warning.

Q. Did anybody ever tell you that you were fired because you acted as a witness for Muriel Hirschfeld? A. I was told in the letter that I was fired for interfering.

Q. Did anybody tell you that you were fired because you acted as a witness for Muriel Hirschfeld? A. No, I was not told that.

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REDIRECT EXAMINATION

[102]

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Q. You mentioned the word "rules" that the part time individuals were requested to sign. I believe Mr. Diamond showed you a list containing nine rules and signed by Mrs. Lawton. A. That's right.

MR. ROSENBERG: I would like these marked as General Counsel's Exhibit 7 for identification.

(Whereupon the document referred to was marked General Counsel's Exhibit No. 7 for identification.)

Q. I ask you if you have ever seen a copy of these before? A. Yes, I have.

Q. When did you see them? A. I don't remember the exact day. Mrs. Lawton gave me a copy of them.

Q. Are these the same rules that she asked the other

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operators to sign, if you know? A. The other full time operators. The part time operators had a second set of rules.

Q. Did she ask you to sign this set of rules? A. Yes, she did.

Q. And is this an exact copy of the list of rules she gave you to sign? A. Yes.

Q. Did you sign them? A. Yes.

MR. ROSENBERG: Your Honor, I would like these placed in evidence.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Any objection?

MR. DIAMOND: No objection.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Received.

(General Counsel's Exhibit No. 7 for identification, was received in evidence.)

Q. Miss Cornell, when in time did Mrs. Lawton give you these rules

rules and ask you to sign them? A. About a month after I started at work.

Q. And you started work approximately when? A. November 19.

Q. So it might have been mid December? A. Yes.

Q. There was some confusion, Mr. Diamond was talking

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about cross partitions and three rows of consoles and I'm a little confused about where you were seated on January 21 when Mrs. Hirschfeld had her discussion with Mrs. Lawton.

Did this conversation between Mrs. Hirschfeld and Mrs. Lawton take place in Mrs. Lawton's office? A. Yes.

Q. Is Mrs. Lawton's office set off from room 114? A. Just by a partition, mainly glass.

Q. How high does this partition run? A. It's about three feet high and then the rest is glass.

Q. Does it go all the way to the ceiling? A. Yes.

Q. You said you were closest to Mrs. Lawton's desk. Can you explain what you meant by that? A. Yes. Taking the office this way, there are two rows of consoles, 1, 2, 3, 1, 2, 3. The door to Mrs. Lawton's office is over here.

Q. Would that be nearer the first row — A. Nearer the two desks here. You go in her door and her desk is here this way.

Q. Are you saying that Mrs. Lawton's desk is at the opposite end of her office from the door? A. Right, very good.

[105]

Q. And the third row of consoles, the one at which you were sitting is closest to Mrs. Lawton's desk as you move back from the door in the direction of her desk? A. Right.

Q. What is the distance between the third row of consoles, that end desk where you were seated if you went directly through the partition to Mrs. Lawton's desk? A. About five feet.

Q. Is that console right next to the partition? A. Maybe a foot, a foot and a half away.

Q. And there's a little passageway? A. Yes, right.

Q. How far from the door would you say that third row of consoles, the seat you were seated in, is from the door of Mrs. Lawton's office?

A. Ten feet.

Q. And during that conversation, was the door to Mrs. Lawton's office opened or closed? A. It was opened.

Q. Could you see Mrs. Lawton and Mrs. Hirschfeld through the glass partition? A. Yes, I did.

Q. What was the first thing that you heard during

[106]

that conversation? A. I believe I heard Muriel make the remark that she was bringing grievances for us and trying to do it as honestly as possible.

Q. In your affidavit, you said you did not hear the beginning of the conversation. Do you know whether the first remark you heard was the beginning of the conversation? A. No, I really don't know.

* * * * *

RECROSS EXAMINATION

BY MR. DIAMOND

Q. Miss Cornell, how far would you say you were from Mrs. Lawton's desk? A. About five feet.

Q. Five feet only? A. That's right.

Q. There was another console behind you, wasn't there? A. No.

Q. You were right up against the partition? A. There was about a foot between me and the partition.

Q. And Mrs. Lawton's desk is immediately on the other side of that partition? A. About five feet, I believe.

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Q. When you sit at your console, isn't your back towards Mrs. Lawton? A. That's right.

Q. So, in order to see what was going on in Mrs. Lawton's office, you would have to turn around? A. That's right.

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BARBARA JOYCE

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Please state your name and address for the record.

THE WITNESS: Barbara Joyce, 234 West Broad Street, Bergenfield, New Jersey.

DIRECT EXAMINATION

BY MR. ROSENBERG

Q. Mrs. Joyce, by whom are you employed? A. Columbia University.

Q. What is your position? A. Telephone operator.

Q. How long have you been employed in that position? A. Twelve years.

Q. What are your working hours? A. 8:00 to 4:00.

Q. What time do you normally take your lunch? A. 11:30 to 12:30.

Q. I direct your attention to Monday, January 21, 1974. What time

did you go to lunch that day? A. 11:30.

Q. What time did you return? A. 12:30.

Q. When you returned from your lunch, was Mrs. Lawton in room 114?

A. I don't remember.

Q. When you returned from lunch, were there conversations going on amongst the various telephone operators? A. Yes.

Q. Who were the operators that were present at that time, if you can remember?

[109]

A. Marian, Gwen, Roxanna, myself, Dru and Muriel.

Q. Will you please reconstruct for us as best you can, the conversation that took place? A. The conversation was already going and it was

about the rules and regulations and somebody mentioned the words "thank you" and I said, "I'm a grown woman and I don't need anyone to tell me when to say thank you or yes ma'am or no ma'am, or anything to that effect."

I said, "I'm not a robot to be programmed."

And the discussion went on from that point. In the meantime, of course, I was answering phone calls.

Q. What else do you recall about the conversation, if you can recall?

A. Well, no one liked the rules and regulations -

MR. DIAMOND: Excuse me. If the witness could testify as to what the conversation was, not what people liked or disliked.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Strike it.

Q. Will you tell us what you heard said and whom you heard to have said it? A. Well, the parts that I remember were - it was an open conversation. There wasn't just one person speaking because one person would

start and everyone else would interrupt and it was a conversation going four

[110]

or five ways and it was all pertaining to the same thing. They didn't like the rules and regulations.

Q. Do you recall anything else that was said? A. Dru said we should have a grievance committee and that she was going to do something about it.

Q. Do you recall what she said she was going to do? A. She was going to form a grievance committee.

Q. Do you recall what the other workers said when she said she was going to form a grievance committee? A. Nothing definite.

MR. ROSENBERG: I have no further questions.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Any cross?

MR. DIAMOND: Yes, your Honor.

CROSS EXAMINATION

BY MR. DIAMOND

Q. Where was Roxanna sitting during this conversation? A. I don't remember. She was in the room.

Q. Was she partaking in the conversation? A. Yes.

Q. She heard everything that was going on? A. To the best of my knowledge she did.

Q. Did she say anything? A. I don't remember.

Q. What did Marian say? A. I don't remember word by word who said what. I

[111]

was working while the conversation was going on.

Q. Well, were you told that day about any changes in operating procedures? A. I was given a sheet of rules and regulations to read.

Q. When was that? A. During the day.

Q. During that day? A. I believe so. I'm confused with the dates.
I know I was given a list and I was asked what I thought of them.

Q. Is this the list you were given, General Counsel's Exhibit No. 7?

A. I can't see without my glasses.

Q. Do you have your glasses with you? A. They are in my bag.

THE WITNESS: Thank you.

A. Yes, this is it.

Q. You were given that on January 21st? A. About that time.

Q. When you say about that time, was it that day or some other day?

A. I'm not sure of the date.

Q. Could it have been a month before? A. No.

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Q. The week prior to January 21st? A. I don't remember the
date.

Q. But you're sure it wasn't as far as a month before? A. I don't
think so.

Q. Did you sign it when you received it? A. Yes, I did.

Q. Did other employees, operators, receive it the same day you received
it? A. Yes.

Q. Did they also sign it? A. Reluctantly.

Q. What was said about the Bank of America during the conversation?

A. I wasn't in on that conversation.

Q. You didn't hear anything about the Bank of America? A. No.

Q. What was said about a grievance committee? A. Dru said she
was going to form a grievance committee.

Q. And did anybody make a response to that? A. I don't think
so.

Q. What was said after she said "I'm going to form a grievance committee"?

[112A]

A. I really don't know. I was working, answering calls, trying to listen at the same time.

Q. You just heard her say that? A. That's right.

Q. Did you hear anything after that? Did the conversation end with that? A. No, it went on but I couldn't hear everything that was said.

I was working, I had somebody talking in my ear.

Q. Would Dru and Muriel have had somebody talking in their ear at that time? A. If they were busy, they would; if they weren't, they wouldn't.

Q. Do you remember hearing anything after the grievance committee was brought up? A. Nothing in particular.

Q. Nothing concerning the working conditions of the employees or anything else? A. That was general talk all the time.

Q. That was general talk all the time? A. That's right.

Q. There was general griping about the working conditions? A. Right.

Q. Was that just after Mrs. Lawton became supervisor

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or before? A. Before and after.

Q. So, generally employees always felt that they could do it better?

A. No.

MR. ROSENBERG: Objection, your Honor.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Q. Was this conversation that you had on the 21st different than the conversations that you were having throughout your period of employment?

MR. ROSENBERG: Objection, your Honor. It calls for a conclusion on the part of the witness.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Well, she heard the conversations. Overruled.

Go ahead.

A. What was the question?

Q. Was the conversation that you were having on the 21st about the rules and regulations, were they like the same conversations that you had been having — A. It was a little bit stronger because tensions were building up.

Q. What do you mean by a little bit stronger? A. Everybody was displeased with what was going on.

Q. How were you displeased? Did you say that you were more displeased on that day?

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A. Yes, I resented being told as to what to do in that particular way. I worked there for 12 years. I knew my job and I was very efficient.

Q. Did you tell the other employees that you resented it? A. Yes.

Q. What did you say? A. That I resented being told what to do in that particular way.

Q. Did anybody else say anything? A. They all agreed.

Q. Did somebody say "I agree"? A. I couldn't see everybody at the same time. There are five consoles there. I couldn't see everybody at the same time.

Q. How do you know the other employees agreed with you? A. They way the conversation was going. I can't repeat it verbatim. I can only tell you words that I heard on and off.

Q. So, other than the fact that Dru said she was going to form a

grievance committee, whay other words did you hear from other employees?

A. About somebody being very moody, that was the conversation.

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Q. Who said that? A. I don't know who. I was sitting at a console.

Q. Do you know who they were referring to? A. Yes, I do.

Q. Did they say the name? A. They didn't have to.

Q. Did they say the name? A. No, they didn't.

Q. What else did you hear? A. I don't remember.

Q. How long did this conversation go on? A. Usually they went on every day.

Q. How long did this conversation go on? A. Maybe an hour, a half hour.

Q. A half hour to an hour? A. That's right.

Q. And you only can remember three things? One, you said you didn't like the rules, Dru said she was going to form a grievance committee, and three, somebody said something about somebody being very moody? A. I answer calls all that time. I can't just sit and listen.

Q. Do you remember anything else? A. No, I don't.

Q. During any of this conversation, did Mrs. Reed

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come back, Betsy Reed, did she come back in the room? A. Betsy Reed goes to lunch when I come back.

Q. Did she hear any of this conversation? A. No.

Q. How did the conversation terminate? A. We were all working and Mrs. Lawton walked into the room.

Q. Do you remember what was said just prior to Mrs. Lawton walking into the room? A. No.

Q. What was the first thing you heard said when you returned from lunch? A. I wasn't really listening until I hung up my coat and sat down and the operators were talking about the rules and regulations and how things changed.

Q. Were you notified about any change that day? A. I don't remember.

Q. Did any of the other employees say they were notified about any rule changes that day? A. I didn't ask them.

Q. But did you hear anybody say it? A. No.

Q. Were you present on January 22 at work? A. Most likely I was.

Q. What time do you get in in the morning?

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A. 7:30.

Q. What time did you go to lunch? A. 11:30.

Q. Was anything said to you that day about a notice having been put on the bulletin board the night before? A. When I walked into the office, I noticed that there was a notice up on the bulletin board. I didn't read it and I didn't pay attention to it. I didn't care about it.

Q. Did you see Mrs. Lawton take the notice off? A. I'm not too sure whether she took it down or another -- I think it was her, but I'm not too sure.

Q. Did anybody ever tell you what that notice said that day? A. From what I heard it was about a grievance committee being formed and that the operators had a right to a grievance committee.

Q. Who told you that? A. It was general talk in the operating room. I don't know who said it.

Q. Did Dru or Muriel tell you on Tuesday, anything about a

conversation that they had with Mrs. Lawton the night before or that morning? A. No, I don't think so.

Q. Was anything further discussed on January 22 about

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the grievance committee? A. I don't think so.

Q. Did Dru or Muriel tell you that they were going to go into Mrs. Lawton and see if they could have a meeting with the operators? A. I believe they said something to that effect.

Q. When did they tell you that? A. During the afternoon, I believe it was.

Q. Was anybody else present? A. The other operators, I don't know exactly who.

Q. Where were Dru and Muriel sitting with relation to your console? A. I don't know, I don't remember.

Q. Were they sitting next to you? A. I don't remember.

Q. For them to talk to you, would they have to raise their voice in order to be heard over the noise of the office, of the phones ringing?

A. There's no noise —

MR. ROSENBERG: Objection, your Honor. This has gone far beyond the scope of the direct.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Yes, sustained.

Q. What time did you go home on January 21st? A. Regular time, about a quarter to 4:00. I left the console at that time.

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Q. Were you at work on January 23rd? A. Yes, I was.

Q. What time did you go to lunch on January 23rd? A. 11:30.

Q. What time did you return? A. 12:30.

Q. Was there a commotion when you returned? A. No, everything

was very quiet.

MR. ROSENBERG: I must object, your Honor. If Mr. Diamond wants to make her his own witness now that he has gone beyond the scope of the direct, he may do so. This is improper cross.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Make this witness your own witness, Mr. Diamond at this time.

MR. DIAMOND: Fine, your Honor.

BY MR. DIAMOND:

Q. What did you see when you returned from lunch on January 23rd?

A. What did I see?

Q. Yes. A. Everyone sitting down doing their job, Muriel was sitting at a console doing her job. I didn't see Dru, but I know she was there someplace. I just didn't happen to see her.

Q. Did anybody tell you when you returned that Dru and Muriel had been terminated?

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A. I had heard that in the ladies' room before I went into the office.

Q. Who told you that in the ladies' room? A. Marian came into the ladies' room crying and she told us.

Q. What did she tell you? A. That Muriel and Dru had been fired. She said it was a terrible scene. And she was crying.

Q. Did Muriel or Dru - excuse me.

Did Dru or Muriel speak to you on January 23rd? A. No.

Q. Had you seen a notice on the bulletin board in the morning of January 23rd? A. I believe that was the date.

Q. Did you read that notice? A. No, I didn't.

Q. Did you see a notice? A. Yes, I did.

Q. You never went up to read it? A. No, I didn't.

Q. Did you see Mrs. Lawton take it down? A. I can't remember whether I saw her or whether I was on my coffee break in the locker room.

Q. Did anybody ask you if you knew anything about that notice?

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A. No, I don't think so.

Q. Did Mrs. Lawton ask you if you knew anything about the notice that you saw on January 22nd? A. No.

Q. Did Dru or Muriel on the 22nd tell you that they were going to present grievances to Mrs. Lawton on your behalf and on behalf of other employees?

MR. ROSENBERG: Objection, your Honor.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: What is the objection for?

MR. ROSENBERG: He's leading.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Q. Did you have any conversations with Dru or Muriel on January 22?

A. There was conversation about a grievance committee.

Q. And what were those conversations? A. I don't remember word for word. I only remember the subject matter.

Q. You just remember the subject? A. There were a few words that I could pick up now and then, but I was working at the time.

Q. Did you ever agree to have Muriel and Dru represent you? A. I didn't object to it.

Q. How did that come about, what did you hear that

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you didn't object to? A. I didn't object to Dru or Muriel going in and presenting the problems of the operating room.

Q. Did they tell you that they were going to do that? A. Yes, they did.

Q. When was that? A. During the course of the conversation. I think it was Monday or Tuesday, I don't remember exactly.

Q. You don't remember. A. It was Monday or Tuesday.

Q. And again, what did they say? A. That they were going to form a grievance committee and present it to Mrs. Lawton.

Q. Did any of the other employees say anything? A. Not to my knowledge.

Q. Who said that, Muriel or Dru? A. Dru.

Q. Did you hear Muriel say anything? A. There was cross conversation, but I don't remember everything.

Q. So, the only thing that you remember was that they said they were going to form a grievance committee? A. That's right, and present it.

Q. Other than that, you don't remember anything else

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that occurred during those conversations? A. Not that I can remember.

MR. DIAMOND: No further questions.

MR. ROSENBERG: I have a couple of questions, your Honor.

REDIRECT EXAMINATION

BY MR. ROSENBERG

Q. I believe on cross examination by Mr. Diamond, you used the term that one of the operators used, moody. Who was that that they were talking about?

MR. DIAMOND: Objection, your Honor. Unless the person is identified —

MR. ROSENBERG: What her understanding was is valid, your Honor.

Q. What is your understanding of who they were referring to when they used the term moody? A. Mrs. Lawton.

Q. You are here under my subpoena, are you not? A. Yes.

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BETSY REED

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Please state your name and address for the record.

THE WITNESS: Betsy Reed, 412 West 115th Street, New York.

DIRECT EXAMINATION

BY MR. ROSENBERG

Q. I'm going to ask you to keep your voice up so the Reporter can hear you.

You are here under my subpoena, are you not? A. That's correct.

Q. By whom are you employed? A. Columbia University.

Q. What is your job at Columbia University? A. I'm a clerk-

Q. And for whom do you work, who is your supervisor? A. Mrs. Lawton.

Q. And how long have you been employed by Columbia University?

A. Almost 12 years.

Q. And how long has Mrs. Lawton been your supervisor? A. As assistant chief operator, for two years and seven months as chief operator.

Q. And when did Mrs. Lawton become chief operator if you know?

A. I believe it was October 26, 1973. If not, then it would be the following Monday.

Q. I direct your attention to January 23, 1974. Did there come a time when Mrs. Lawton directed you to type a letter on that date? A. Yes.

Q. And --

MR. ROSENBERG: I would like this marked as General Counsel's Exhibit 8 for identification.

(Whereupon the document referred to was marked General Counsel's Exhibit No. 8 for identification.)

Q. I show you what has been marked as General Counsel's Exhibit No. 8 for identification, and ask you if you can identify it? A. I assume I typed this because I remember it.

Q. Now, when did you type this letter? A. In the morning of January 23rd.

Q. Now, did Mrs. Lawton say anything to you when she told you to type this letter?

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A. I think she had it written out and handed it to me.

Q. What did she say to you when she handed you the letter, if anything? A. I think she asked me just to type it for her.

Q. Now, the letter is a notice to Mr. Nelson. It says "This is to inform you that I have terminated Muriel Hirschfeld as of January 23, 1974 due to incapability in the office.

"We owe her for one day's pay for Dr. Martin Luther King "H" day and it's signed Mrs. O. Lawton."

It's dated January 23rd and addressed to Mr. Nelson.

At any time prior to January 23, did Mrs. Lawton speak to you about termination of Muriel Hirschfeld? A. Yes, she did.

Q. When was that? A. She told me that she definitely was going to be terminated on the 22nd.

Q. On the 22nd she told you that she was going to terminate Muriel Hirschfeld? A. Right.

Q. At the time she had this conversation with you concerning the

termination of Muriel Hirschfeld, did she say anything to you about Drucilla Cornell?

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A. Yes, she made the simple statement that if Dru didn't watch her step, she would be next.

Q. Was anyone else present when Mrs. Lawton said this to you? A. The other operators who were in the office. It wasn't in her private office. It was out where the operators were.

Q. Mrs. Reed, who is Henry K. Nelson? A. He's purchasing agent of the University.

Q. Now, is this an exact copy of the letter which you typed on January 23rd from Mrs. Lawton's written draft? A. Yes, as far as I know. It doesn't have my initials on it, but I often don't put my initials on it.

Q. Is Mrs. Lawton's signature? A. Yes.

MR. ROSENBERG: I offer it in evidence, your Honor.

MR. DIAMOND: No objection.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Received.

(General Counsel's Exhibit No. 8 for identification was received in evidence.)

Q. Mrs. Reed, have you typed any other termination notices for Mrs. Lawton? A. Yes. Not for someone who had been fired.

Q. Can you explain the situation?

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A. There was a girl who left because she herself felt that she should leave.

Q. When was that? A. I can't give you the date.

Q. Approximately when? A. December, January.

Q. Has Mrs. Lawton, to the best of your knowledge, ever fired anyone

other than Drucilla Cornell and Muriel Hirschfeld? A. No.

Q. Did you type a similar notice concerning Drucilla Cornell? A. No.

Q. Did you type any other documents for Mrs. Lawton concerning the discharge of either Muriel Hirschfeld or Drucilla Cornell? A. I typed a letter to Mr. Nelson or Mr. McGrady, describing the incident when Mrs. Hirschfeld was fired.

MR. ROSENBERG: Mr. Diamond, do you have a copy of that letter?

MR. DIAMOND: No, not at the present time.

Q. Do you recall what that letter said or what that memorandum said? A. It would have been a description, very briefly, of what Mrs. Lawton wanted to tell Mr. Nelson or Mr.

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McGrady about what happened that noon.

Q. Do you remember the content of that letter? Could you tell me what it said? A. I can't really remember word for word. It mentioned Muriel being called in to the office and that Dru had gone in to the office and it mentioned calling security and that Mr. McGrady was there.

Q. Fine, thank you.

MR. ROSENBERG: No further questions of this witness at this time. Mr. Diamond?

CROSS EXAMINATION

BY MR. DIAMOND

Q. Did you every discuss with Mrs. Lawton, Dru Cornell's appointment in the operating room? A. No.

Q. Did you every have a conversation with Mrs. Lawton as to whether Dru Cornell fit in with the other operators? A. I didn't have a conversation that she did not fit in.

Q. Did you ever make any comment to Mrs. Lawton concerning --

A. About Drucilla, no.

Q. You didn't talk to Mrs. Lawton a week or two before January 21st?

A. Not about Drucilla.

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Q. Did you ever have a conversation about Muriel Hirschfeld? A.

Yes.

MR. ROSENBERG: Objection, your Honor. This has gone beyond the scope of direct again. If Mr. Diamond wants to make her his witness, he may do so.

MR. DIAMOND: Your Honor, the direct dealt with the termination of Drucilla Cornell and I would like to get the background information that General Counsel did not see fit to put in.

MR. ROSENBERG: The testimony took place January 21st and January 22nd and the typing of the letter and it went no further than that.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Yes, but it concerned the discharges. I suppose this whole case is about the discharges.

MR. DIAMOND: That's correct, your Honor.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: You can make her your own witness, if you want, but I'll sustain the objection.

MR. DIAMOND: I'll make her my own witness.

BY MR. DIAMOND

Q. What conversations did you have with Mrs. Lawton concerning Muriel Hirschfeld? A. I felt that she didn't fit in with the other girls in the office. Mrs. Lawton said others had made the same

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comment. At the time that I spoke to her, that was about two weeks before she was fired, she said she would have to make some decision soon about her.

Q. Did anyone ever inform you, any of the employees ever inform you about a grievance committee? A. No.

Q. Did you ever hear any of the employees discuss a grievance committee? A. No.

Q. Were you present in the office on January 21st and January 22nd? A. Yes.

Q. And no one — did anyone approach you concerning a grievance committee? A. No.

Q. Did anyone ask your opinion concerning a grievance committee? A. No.

Q. Did Dru or Muriel ever discuss with you, conversations that they had with Mrs. Lawton on the 21st and 22nd? A. No.

Q. Were you present in the office on January 23rd? A. Yes.

Q. Were you present approximately 12:00 o'clock?

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A. I was.

Q. Did you see Muriel Hirschfeld go in to Mrs. Lawton's office? A. I didn't see her, but I heard Mrs. Lawton call her into the office.

Q. Did Mrs. Lawton say anything at that time when she called Muriel into the office? A. No. I think Dru went to work at the console and she asked Muriel to sit aside. Mrs. Lawton herself was working at the console. When she finished, she called Muriel in to the office.

Q. Do you know what console Dru Cornell was working at? A. I believe it was console number 5.

Q. Where would that be in relation to the partition and Mrs. Lawton's office door? A. It would be a row away from the partition with a row in between her and the partition.

Q. Was she at the console nearer to the wall? A. No, away from the wall.

Q. Was she nearer to the door of Mrs. Lawton's office? A. She was away from the door. She was approximately in the middle of the telephone operator's room.

Q. Was there a console on both sides of her?

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A. Only on one side

Q. Her right side? A. It would have been her left side.

Q. How far would you say Mrs. Lawton's desk is from the partition that separates her room from the main operating room? A. Approximately eight feet.

Q. Is that a full wall with the glass partition? A. It is, and it includes a door.

Q. When Muriel went in to Mrs. Lawton's office on January 23rd, did you hear any yelling? A. No.

Q. Could you see them through the glass partition? A. I could have seen them, but my back was turned.

Q. So you did not see them? A. No.

Q. Did you see Drucilla go in to that office? A. No, I didn't, but I heard her voice so I knew she had gone in there.

Q. Was that the first voice you heard? A. I heard the murmur of voices very briefly.

Q. Before Dru went in to Mrs. Lawton's office, did you hear Mrs. Lawton yelling at Muriel? A. No.

Q. Did you hear Mrs. Lawton making any threats

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against Muriel? A. No, not at any time.

Q. Did you ever hear Dru tell Mrs. Lawton that she was acting as a witness for Muriel? A. No.

Q. Did Mrs. Lawton ever ask you if you knew who put the notices up on the bulletin board? A. No, she didn't.

Q. Was that bulletin board used for personal notices of the employees? A. I have never seen a personal notice there.

Q. What kind of notices did you see on the bulletin board? A. Business notices.

Q. Did you type an exhibit labeled General Counsel's Exhibit No. 7, the rules and regulations for the operators? A. Yes.

Q. Do you remember -- A. I typed a list of rules. This appears to be it.

Q. Do you remember when you typed that? A. No, I really don't.

Q. On January 21 and January 22, did you hear any conversations among the employees as to their dislike of regulations that had just come down either of those days?

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A. No, I don't recall that I did.

Q. Was Marian in the room on January 23rd when Muriel was called in to Mrs. Lawton's office? A. Yes, she was.

Q. Was she sitting at a console at that time? A. Yes.

Q. Was she closer to Mrs. Lawton's door than Dru? A. She was sitting at the desk closest to the door.

MR. DIAMOND: No further questions.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Redirect?

REDIRECT EXAMINATION

BY MR. ROSENBERG

Q. Mrs. Reed, have you ever seen cartoons posted on the bulletin board? A. Perhaps three in the 12 years that I have been there.

Q. Was there a cartoon on the bulletin board? A. I can't remember.

Q. You have been employed by Columbia for 12 years? A. That's correct.

Q. How long has Mrs. Lawton been employed there? A. Nine years.

Q. Would it be fair to say that you have a close office friendship with Mrs. Lawton? A. Yes.

Q. And the work -- do you do any telephone operator

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work now? A. No, I have never been an operator. I work on a phone where people call for information.

Q. And you're a clerk-typist? A. Correct.

Q. And you type memoranda and letters for Mrs. Lawton? A. Yes.

Q. Do you ever recall Mrs. Lawton at a time when she was the assistant supervisor, ever putting cartoons on the bulletin board? A. She might have, but I don't remember any.

Q. Let me refresh your recollection. On March 18, 1974, you gave an affidavit to Mr. Robert A. Reisinger, an NLRB rep; is that a fact? A. I gave him an affidavit. I can't tell you what date.

Q. Did you say in that affidavit the bulletin board is generally used for official business but on occasion other girls including Onnie Lawton when she was official supervisor put up cartoons. I don't remember anyone ever telling us that the board was for official use and not to put up cartoons? A. That's correct. I don't remember anybody telling us that it was only for official business. I don't

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remember specifically saying that Mrs. Lawton had put a cartoon on the bulletin board.

Q. This is a Xerox copy of your affidavit. Let me show you the first paragraph on page 3. I ask you to read it over and see if that refreshes your

recollection. A. Yes, this is what I said, but that doesn't mean that Onnie specifically put a card on the board. I imagine I said that some of the girls occasionally would put a cartoon on the board, and if I was asked would that include Mrs. Lawton, I would have said yes, that includes Mrs. Lawton.

Q. But in the past she may have? A. She may have. I can't tell you who had and who had not.

Q. And there have been Christmas cards put up there? A. I don't remember any Christmas cards being there. They are usually on a table near the bulletin board.

Q. You were there Christmas of last year? A. Yes.

Q. And you don't remember seeing any on the bulletin board? A. No.

Q. As far as you are concerned, Mrs. Reed, would it be a fair statement, a fair summary of your statements to say that as far as you knew, there were no official

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restrictions placed on the bulletin board?

* * * * *

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MURIEL HIRSCHFELD

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Give your name and address to the Reporter.

THE WITNESS: Muriel Hirschfeld, 777 East 169th Street, Bronx, New York.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Mr. Rosenberg.

DIRECT EXAMINATION

BY MR. ROSENBERG

Q. Mrs. Hirschfeld, were you ever employed by the respondent Columbia University? A. Yes.

Q. What was your position? A. Telephone operator.

Q. When did you start that employment? A. December 13, 1974.

Q. 1974? A. 1973.

Q. Who was your supervisor? A. Mrs. Onnie Lawton.

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Q. Do you know Drucilla Cornell? A. Yes.

Q. How do you know Miss Cornell? A. She was a centrex operator also.

Q. Who hired you? A. Mrs. Lawton.

Q. Did you undergo any training period after you were hired? A. For about a week and a half.

Q. And were were you trained? A. In room 114 Low Library.

Q. And who trained you? A. Miss Roxanna Brandao.

* * * * *

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Q. How many operators normally work in the centrex center?

Let's take it one shift at a time, on the day shift? A. On the day shift, is four, about four.

Q. Do you want to go through the names? A. That would be Gwen, Marian, Barbara, Roxanna.

That is it.

Q. Now, is there a swing shift, this noon to 8:00 shift? A. Yes, myself and Drucilla.

Q. Is there an evening shift? A. There is the part timers.

Q. How many part timers are there? A. Frank, Morris, Chris, Cindy.

Q. Is there a graveyard shift from midnight to the morning. A. Yes.

Q. You don't know who operates it?

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A. No.

Q. Now, how many shifts did the telephone center operate on during this vacation, if you know? A. I was there, we were switched to the day shift. So I guess it just operated two shifts, the day and the evening. Frank would stay over.

Q. Did anyone come in to help Frank at night that you saw? A. The only one who came in occasionally was George.

* * * * *

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Q. I direct your attention to Monday, January 21, 1974, at around 11:00 o'clock in the morning.

Did you have occasion to meet with Drucilla Cornell before going to work? A. Yes.

Q. Where was that? A. In Chock Full 'O Nuts.

Q. On arriving at work that day, did you have occasion to speak to Mrs. Lawton? A. Yes, we did, she called us in to her office to talk to us about a change of policy.

Q. What were those policy changes? A. She said prior to that we had been saying the line was busy, to ask the person if they wanted to hold or wait. She said to say nothing at all. She said instead of asking the people if they wanted the number -- if they wanted to be connected, just connect them instead of asking them if they wanted the number for later reference.

Q. Did anybody ask Mrs. Lawton any questions during this period?

A. Drucilla asked her, she wasn't clear on it.

Q. Did there come a time when Mrs. Lawton left the office to go to lunch that day? A. Yes.

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Q. What time was this? A. Approximately 12:30, 12:20, somewhere around there.

Q. While Mrs. Lawton was out for lunch, did you and Drucilla Cornell have any discussions with your fellow operators? A. Yes.

Q. What were the subjects of those discussions? A. We talked about the change of policy, Barbara Joyce said that she was a grown woman and she didn't think anyone had to tell her when to say please and thank you.

Gwen made the statement that the office was being run by Mrs. Lawton's moods rather than systematically. She also said to ignore the change of policy and just continue the way we had been, to use our own judgment.

Drucilla talked about forming a grievance committee and presenting our grievances to Mrs. Lawton.

Q. Did you and Drucilla Cornell go to lunch on that day? A. Yes, we did.

Q. Did you have any discussions with her on that day during lunch?

A. Yes, we did.

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Q. What were the subjects of those discussions? A. We talked about forming a grievance committee; talked about how we were going to present it. She said she would go in to speak to Mrs. Lawton and express the grievances to her. We said we would act as witnesses for one another if anything should occur.

Q. I now direct your attention to a quarter to 5:00 on January 21. Did you have any conversations with Mrs. Lawton? A. Yes, I did.

Q. Will you please tell the court the circumstances surrounding that conversation? A. Mrs. Lawton had asked me to change positions, and I closed off the centrex. Since the centrex was closed anyway, I took the liberty of throwing a tissue away in the basket and I ran to my locker to get an aspirin because I wasn't feeling well.

When I was returning she made the statement "We don't sashay around the office. Maybe that is what you do at night, we don't do that on my time."

Q. I'm going to ask you to speak a little more slowly and a little bit louder.

Approximately how long did it take you to throw this tissue away and go in to the locker room and get the aspirin?

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A. Approximately two minutes.

Q. After Mrs. Lawton had told you not to sashay around the office, did you have any conversations with Drucilla Cornell? A. Yes, I did.

Q. Will you please reconstruct that conversation? A. I simply told Drucilla I was going in to speak to Mrs. Lawton about the grievances of the operators.

Q. Did Miss Cornell say anything to you? A. She said she would back me up.

Q. What did you do after that? A. I asked Mrs. Lawton could I speak to her.

Q. Did you speak to her? A. Yes, I did.

Q. Where? A. In her office.

Q. Was anybody else present? A. No.

Q. Will you please reconstruct that conversation as best you can? A. Yes.

I went in and I said to Mrs. Lawton that I felt that the inconsistency of policy was unfair to myself and the other operators, and that I couldn't see why we had to use the explicit phrase "May we please be

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excused to go to the bathroom," as opposed to "May we please have coverage".

We felt that they were petty, and it wasn't necessary. We were all adults.

She said, "That is your opinion. If you don't like it, you can quit, and I'm the boss in 114."

Q. How did this conversation end? A. She said we would discuss it further tomorrow, she was leaving.

Q. Then what did Mrs. Lawton do? A. She put on her coat and left.

Q. Was anybody else present in room 114 at the time these conversations took place? A. Drucilla and Christopher Wells.

Q. Now, there has been testimony that there are certain night operators who work the evening shift. Which of these night operators worked on January 21? A. Morris, Frank, Chris, myself and Drucilla.

Q. Did you have any discussions -

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Could you give us their

last names; sometimes the first names are meaningless when you start to read the transcript.

THE WITNESS: I'm not familiar with their last names.

Q. Would Chris be Chris Wells?

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A. Yes.

Q. Frank Dobbins? A. Yes.

Q. MR. ROSENBERG: Mrs. Lawton, if you could give us Morris' last name for the record.

MR. DIAMOND: Morris Dunlop.

Q. Did you and Drucilla Cornell have any discussions with these night operators that evening? A. We discussed the events of the day, and the new policy that is being introduced, and Drucilla again mentioned the formation of a grievance committee. Then we drew up the notice.

Q. I show you General Counsel's Exhibit No. 2 in evidence, and ask you if that is the notice that you drew up? A. That is the notice.

MR. ROSENBERG: Your Honor, do you have a copy of that already?

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Yes.

Q. Now, how was this notice prepared? A. We just talked it out about the wording and everything, and Drucilla wrote it up.

Q. And who posted this notice? A. I posted it.

Q. Where?

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A. On the bulletin board.

Q. Was there anything else on the bulletin board when you posted it?

A. University business and a Ching Chow cartoon for the newspaper.

Q. And approximately what time was this notice posted? A. About 7:00.

Q. Did any discussions ensue after this notice was posted? A. Just rehashing of the same things over and over.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I can't hear you either.

THE WITNESS: Rehashing of the same things over and over.

Q. I direct your attention now to Tuesday, January 22, about 11:00 o'clock in the morning. A. Yes.

Q. Did you have occasion to meet Drucilla Cornell before going to work that day? A. Yes, I did.

Q. Where was that? A. Chock Full 'O Nuts.

Q. Did you have any discussions with her? A. Yes.

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Q. Did you reach any agreement on understanding as a result of those discussions? A. Yes.

Q. What was your understanding? A. That we were to act as each others witness if anything came about, any trouble came about.

Q. Do you recall discussing anything else? A. That Drucilla was going to go in and speak to Mrs. Lawton and admit that we posted the notice.

Q. What time did you arrive at work that day? A. About 11:45.

Q. Was the notice on the bulletin board when you arrived? A. No, it wasn't.

Q. Did Drucilla Cornell have any conversations with Mrs. Lawton after you arrived at work that day? A. Yes.

Q. When was this, approximately? A. About 10 minutes to 12:00.

Q. Where did these conversations take place? A. In Mrs. Lawton's office.

Q. Did you hear any part of those conversations? A. Parts of it. They were loud.

Q. Will you please tell me what you heard. A. I heard Mrs. Lawton say "You admit to posting the

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notice", and I also heard her say "Workers had no rights", and she said we had no right to post it on the bulletin board.

Q. Did you hear all the conversation? A. No.

Q. Did you hear anything that Drucilla Cornell said? A. No, because Mrs. Lawton was speaking over Drucilla.

Q. Did you hear her admit she posted the notice? A. When she first walked in she said she posted it, and she said "You admit to it"?

MR. DIAMOND: General Counsel is leading the witness. She says she doesn't remember anything.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Q. Did you or Drucilla Cornell have any further conversations with Mrs. Lawton on January 22? A. No, none.

Q. Did you have any discussions with the other operators on January 22? A. We talked about what had happened.

Q. Did you have any discussions with the evening operators on January 22? A. Just a reoccurrence of what happened, talking about what happened.

Q. Did you engage in any authorship on the night of January 22?

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A. Yes, I did.

Q. I show you what is General Counsel's Exhibit No. 4 in evidence, and ask you if you recognize it. A. Yes, I do.

Q. What is that? A. Simply a joke, no significance at all to anybody. That I wrote it.

Q. Did you write it? A. Yes, and I posted it.

Q. It is a poem, is it not? A. A joke.

Q. Where did you post it? A. The bulletin board.

Q. The same bulletin board you posted the previous notice? A.
Yes.

Q. Was the Ching Chow cartoon still there? A. Yes.

Q. I direct your attention to Wednesday, January 23, 1974.

Did you have occasion to meet with Drucilla Cornell before going to work that day? A. Yes.

Q. Where? A. Chock Full 'O Nuts.

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Q. Did you have any discussions with her at Chock Full 'O Nuts?

A. We agreed to act as each others witness if anything had occurred. She also said we had to go to the library to get a book.

Q. Do you recall anything else about the conversation? A. Right now I can't recollect, really.

Q. Do you recall anything else being said about Mr. McGrady? A.
January 23, no.

Q. Where did you go from Chock Full 'O Nuts? A. We went to the business library.

Q. What did you do there? A. Dru got out the book on labor laws.

Q. Did you go to work that day? A. Yes, we did.

Q. What time did you arrive? A. About 10 minutes to 12:00.

Q. What, if anything, happened when you arrived at work? A.
When we got there, Mrs. Lawton said, "Muriel, I want to speak to you in my office".

Q. Did you do anything prior to speaking to Mrs. Lawton? A. I hung up my coat and I took the book, was going

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to take the book in since she wanted to speak to me.

Q. Did you have a conversation with Mrs. Lawton? A. Yes, we did.

Q. Where was that? A. In her office.

Q. Was anyone else present? A. Just Mrs. Lawton and I.

Q. Was the door to her office open or closed? A. Opened.

Q. Will you please reconstruct that conversation for us as best you can? A. When I walked in, I laid the book on her desk. She handed me my check and said I'm fired. She said "I owe you one day's pay for Martin Luther King."

Q. Will you speak a little more slowly and raise the volume of your voice. A. I'll try.

Q. Continue. A. She said incompatibility of views.

Q. Incompatibility of views? A. Yes.

Q. Continue. A. I said, "With whom".

She said, "With me".

Q. Continue.

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A. I said I wasn't accepting the firing, I felt it was unfair, and I wanted to see someone with more authority, preferably Mr. McGrady.

She said "If I didn't get the hell out of her office, she was going to lay her hands on me and hurt me.

At that point, Drucilla came in and she said to her under University policy, Muriel is entitled to a witness.

She told Drucilla, "Your name is not Muriel, it is Drucilla." She told Drucilla to get the hell out or she is going to knock the teeth out of her mouth.

Drucilla kept saying under University policy I was entitled to a witness.

At that point, she said "You're fired. You were next anyway."

Then she --

Q. Do you recall anything else being said at that conversation? A.
She said she was going to call the police.

She asked Spencer Reed to call security.

Q. Did some security guards come to room 114? A. Yes, they
did.

Q. Did Mr. Sidlowski at some time come to room 114? A. Yes.

Q. What happened when Mr. Sidlowski arrived?

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A. When he came, Mrs. Lawton handed him -- he spoke to Mrs. Lawton.
She handed him my letter of termination. He read it, and then he gave it to
me so I could read it. She said I would get a copy, which I never did.

Q. I show you General Counsel's Exhibit No. 8 in evidence, and ask
you if this is a copy of the letter which Mr. Sidlowski showed to you? A.
That is a copy of the letter.

Q. After Mr. Sidlowski showed you the letter, then what happened?

A. He told Mrs. Lawton to call Mr. McGrady. We went in to Mrs. Lawton's
office and sat down with him. He told Mrs. Lawton to call Mr. McGrady.

Q. Did Mr. McGrady arrive? A. Yes.

Q. Did you have some discussions with Mr. McGrady? A. Yes, we
did.

Q. Did there come a time on that day when you went to the personnel
office? A. Yes.

Q. And approximately what time was this? A. About 2:00, 2:15.

Q. Did you speak with someone in the personnel office? A. The
lady, the same lady that interviewed me, but I don't know her name.

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Q. Did she arrange an appointment for you to see Mr. McKeever?

A. She arranged for us to see Mr. McKeever the following morning at 10:00
o'clock.

Q. Did you meet with Mr. McKeever the following morning? A.
Yes, I did.

Q. In this m Mr. McKeever, did you tell him your side
of the story? A. Yes.

Q. Did he ever make a decision regarding your termination at Columbia?
A. Yes, he did. I got it from Mr. McGrady. I didn't get it from him
directly.

Q. Did you call Mr. McGrady? A. Yes, he told me to call Mr.
McGrady that Monday.

Q. You called him? A. Yes.

Q. What did he tell you? A. It was upheld, that I would get my
letter of termination.

Q. Mrs. Hirschfeld, at any time did Mrs. Lawton warn you that you
were going to be fired? A. No, she did not.

Q. The first notification you got of the firing was

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on January 23 when she said "Here is your check, you're fired."? A. Yes.

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CROSS EXAMINATION

BY MR. DIAMOND

Q. On January 22, Tuesday, did you have any discussions with the
night crew as to the events that happened that day? A. Yes, we did.

Q. Who was the night crew that night? A. Chris, Frank, myself,
Drucilla. I'm not sure whether Morris was there that night.

Q. Are you positive Morris was there Monday night? A. Yes.

Q. Did Morris say anything on Monday night? A. He just told us
to be careful as we were still on probation when we started talking about a

grievance committee.

Q. He said that Monday night? A. Yes.

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Q. You're positive? A. Yes.

Q. Are you sure it wasn't another night that he said that? A. No.

Q. What did you discuss Tuesday night -- who did you say, Chris, Frank, Dru and yourself, you weren't sure about Morris? A. The events of the day.

Q. You say the events of the day. What did you tell them? A. Basically that Dru had went in and spoke to Mrs. Lawton and admitted that we had put up the notice. That she had told Mrs. Lawton we were going to get a book out of the library.

Q. You heard her say that; did you hear Dru say that on Tuesday morning, or afternoon around 12:00 o'clock after her conversation with Mrs. Lawton?

A. You asked me what happened Tuesday morning.

Q. Did you hear that Dru said she was going to get out a book when she spoke to Mrs. Lawton? A. I told you what I heard.

Q. I'm asking you again. A. I told you what I heard, that Mrs. Lawton said workers had no rights, yes, she admitted to putting up the notice.

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Q. Did you hear Dru say that she was going to get out a book? A. No, I didn't hear her say she was going to get out a book. I heard her say it Tuesday evening.

Q. Tuesday evening? A. Yes.

Q. What else was said Tuesday evening? A. I don't remember anything else at the moment.

Q. So, you just said that Dru had a conversation with Mrs. Lawton, Mrs. Lawton said workers had no rights; Dru said "I'm going to get out a book to show you that we do have rights"? A. Yes.

Q. Did the employees say anything on Tuesday night? A. Not that I can remember at the moment.

Q. They didn't make any comment to that? A. Not that I can remember at the moment.

Q. When did you put up that notice Tuesday night? A. What?

Q. The notice, General Counsel's Exhibit 4. A. I put it up about 7:00 o'clock.

Q. Did you discuss it with anyone? A. We talked about it, even laughed about it. There was no serious discussion about it.

Q. You discussed it with the other employees on

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Tuesday night? A. Yes.

Q. When did you make up that notice; at that moment around 7:00 o'clock? A. A little while prior to 7:00 o'clock.

Q. What caused you to become a poet at that time? A. Nothing caused me to become a poet. It was just a joke and I thought it was a cute joke and I just wrote it out and posted it.

Q. It had nothing to do with the events of that day? A. No.

Q. Did you tell the employees that night that in fact, you were putting it up because that is the way you felt about Mrs. Lawton? A. No, I did not tell them that.

Q. Where were you sitting when Drucilla went in to speak with Mrs. Lawton Tuesday? A. I wasn't sitting, I was standing.

Q. Where were you standing? A. I was standing on the first console in the second row.

Q. What console was that? A. The third console, around the third console nearest the door.

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Q. Would you say this is an accurate diagram of the office?

A. Yes.

MR. ROSENBERG: May I see that, Mr. Diamond?

MR. DIAMOND: Yes.

Q. There are numbers on the consoles. Can you tell us by what console you were standing? A. The one nearest Mrs. Lawton's door.

Q. Console number 1? A. One.

Q. Was that the console that you were assigned to that day?

A. Well, some girls go to the break.

We are not assigned to any console. Whoever is getting up to go on their break, we relieve. No particular console to be assigned to. Whoever is getting up at that time, you relieve them.

Q. Who got up at that time at console 1? A. I really don't remember.

Q. Had you just gotten in at that time? A. Not too long, about five minutes.

Q. You walked over to console 1? A. I saw somebody rising, so I walked over.

Q. You don't remember who that was? A. No.

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Q. What was Dru doing at that time? A. She asked to speak to Mrs. Lawton. She was going in to Mrs. Lawton's office with Mrs. Lawton.

Q. Where were they speaking? A. In her office.

Q. By Mrs. Lawton's desk? A. She was on one side of the desk and Dru was on the other.

Q. Was Mrs. Lawton screaming at that time? A. She started raising her voice, yes.

Q. Did Dru raise her voice? A. Not that much.

Q. Did you have your headset on at that time? A. No.

Q. How many employees were in the office at that time? A. Gwen, Barbara, Roxanna and I'm not sure about Betsy Reed.

And myself.

Q. Mrs. Lawton's voice was quite loud then? A. She raised it quite loud, yes, she did.

Q. Did you have to strain to hear her? A. No.

Q. So other people in the office heard her? A. Yes.

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Q. Did anybody else make any comments? A. Yes, Gwen said to Marian at the end of their conversation, Mrs. Lawton yelled "I'm the boss in 114", and Gwen said to Marian "Did you hear that, she is the boss in 114".

Q. Did they make comment to anything else, like workers not having any rights? A. Not that I remember.

Q. Did Dru come out and discuss what had happened in Mrs. Lawton's office? A. No, not at that moment.

Q. Did she ever discuss it with you and the other employees that day?
A. When Mrs. Lawton went to lunch.

Q. Who did she discuss it with? A. The other employees that were there.

Q. And who was that? A. I'm not sure, I think Barbara returned from lunch, Gwen, I think Roxanna and myself. I'm not sure at the moment.

Q. And what was discussed when Mrs. Lawton went out to lunch?
A. Discussed basically what she had said to Mrs. Lawton and what Mrs. Lawton said to her, and the formation of a grievance committee.

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Q. You discussed a grievance committee that day also? A. Yes.

Q. Did any of the employees make any comments about the grievance committee? A. Some thought it was a good idea. They didn't raise any objections to it.

Q. Who said it was a good idea? A. I believe Barbara Joyce did.

Q. Barbara Joyce on Tuesday said it was a good idea? A. Yes.

Q. Did the other employees say anything? A. Gwen just told Drucilla to be careful because she was out a lot and Mrs. Lawton could use that to fire her.

Q. What did you say? A. I said that Gwen told Drucilla to be careful because she had been sick during her probationary period and Mrs. Lawton could use that as an excuse to dismiss her.

Q. Did Roxanna say anything? A. I really don't remember.

Q. Did you tell the Board agent about this conversation among the employees? A. I believe I just told them of some conversations

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about the employees, I don't remember.

Q. Did you tell them about that conversation on Tuesday? A. I really couldn't tell you whether I did or didn't at this moment.

Q. Did you think they were important, those conversations? A. They had some relevancy, yes.

Q. Do you find any reference to that conversation in your affidavit?

A. No, I don't.

Q. Can you find any reference to the discussion with the part-time employees Tuesday night? A. No, I don't.

Q. Did you see any reference as to the posting of the notice Tuesday night? A. Yes, I did.

Q. You saw a reference in your affidavit to that? A. No, it is not there.

Q. Did you hear the entire conversation between Dru and Mrs. Lawton Tuesday afternoon? A. No, I didn't. I said I didn't.

Q. Was there any problem in not hearing the entire conversation?

A. Mrs. Lawton's voice elevated over Dru's at times.

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Q. So whatever you heard Mrs. Lawton say, she was screaming?

A. Yes, she did.

Q. Was Dru screaming? A. She didn't scream, but she did try to raise her voice so she could be heard.

Q. You say Mrs. Lawton was screaming throughout her conversation?

A. Most of it.

Q. You heard everything Mrs. Lawton said? A. Not everything.

Q. How do you know you didn't hear everything?

MR. ROSENBERG: Objection, your Honor.

A. What do you mean how do I know I didn't hear everything? I don't understand that question.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled.

Q. You said that Mrs. Lawton was screaming, but you said you only heard part of the conversation. A. Yes.

Q. What part didn't you hear? A. What I told you I heard. The workers had no rights.

MR. ROSENBERG: Objection, your Honor.

A. That we had no right to post the notice.

MR. ROSENBERG: She can only testify as to what she heard.

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ADMINISTRATIVE LAW JUDGE FRIEDMAN: Hold it.

MR. ROSENBERG: I ask that that portion be stricken.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Strike it.

Q. The conversation was conducted loudly, wasn't it? A. From Mrs. Lawton's part, yes.

Q. In your affidavit, you said that the conversation was conducted loudly and that is why you heard it.

Did you say that? A. I can remember a lot of things afterwards. Perhaps I didn't remember it at the time.

Q. Well, you did say in your affidavit that the conversation was conducted loudly. A. It was. Mainly on Mrs. Lawton's part.

Q. You didn't put that exception in your affidavit. A. It wasn't asked.

Q. Will you tell us what you heard again? A. I said that I heard Mrs. Lawton say that the workers had no rights, that we had no right to post that notice; that she was the boss in 114.

Q. Do you remember telling the Board agent that Mrs. Lawton said you had no right to post that? A. No, I don't remember telling him.

Q. You didn't tell him, did you? A. I don't remember whether I did or didn't.

Q. Did you read it in your affidavit?

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A. No, I didn't see it in there. I probably had a recollection of it afterwards.

Q. Excuse me? A. I had a recollection of it afterwards.

Q. Afterwards? A. Yes.

Q. You gave this affidavit on February 22; is that correct? A. That is correct.

Q. When did you have a recollection after February 22nd about that conversation? A. I don't remember.

Q. Did you discuss it with Dru after February 22? A. Pardon?

Q. Did you discuss that conversation with Dru after February 22?

A. I don't remember whether I did or didn't. I discussed a lot of things with Mr. Reisinger and Mr. Rosenberg.

Q. What else did Mrs. Lawton say after she said you didn't have any right to post the notice? A. She said the workers had no rights, that she was the boss in 114.

Q. Did she say anything about she would call the employees together?

A. I didn't hear that, I really couldn't testify to

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that.

Q. Will you please read this part of your affidavit where it says "Mrs. Lawton said"?

MR. ROSENBERG: Where are you referring to?

MR. DIAMOND: Page 7, about midway down.

Q. Could you please read that out loud? A. "Mrs. Lawton said I'll call the operators in and I'll ask them if they had any grievances. She then stormed out of the office."

Q. Did Mrs. Lawton go out to lunch after that? A. I believe so.

Q. And in your affidavit, you then stated that Dru then returned to her console and began work? A. She did.

Q. Mrs. Lawton was at that point out to lunch? A. I think so. I don't remember.

Q. Was she in the office? A. I don't remember.

Q. How many changes has Mrs. Lawton made in operations in how to answer the phone since you have been employed? A. About three.

Q. About three? A. Yes.

Q. Were you given a list of instructions on the day

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you were hired? A. Yes, I was.

Q. Is that what is known as General Counsel's Exhibit 7? A. Yes.

Q. You received that the day you were employed? A. I think so.

Q. Did Mrs. Lawton explain to you what the probationary period was on the day you were employed? A. She said something about 60 days. But she said she would let me know in two weeks if she wasn't satisfied.

Q. If you would just answer the questions, I would appreciate it.

Did the other operators indicate to you on Monday, January 21, that she had also been informed that day about new rules changes? A. I don't remember. I don't think so.

Q. Excuse me. A. I don't think so. I don't remember.

Q. What other changes were made?

You first came in, that was one change, she had given you the rules and regulations. You said on January 23 you and Dru were the only ones given rule changes. What other rule changes were you given during your period

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of employment? A. January 21.

Q. January 21, excuse me.

What other rule changes were you given? A. We were told to say if the line was busy "Hold". Later on she told us to said "Wait".

Q. When did she tell you to say "Hold"? A. During my training period I was told to say "Hold, the line was busy".

Q. When were you told to say "Wait"? A. About two weeks, three weeks later.

Q. Were the other employees told to change? A. Yes.

Q. Were you told in a group? A. She said it out in the office there.

Q. She said it in the office to all the employees? A. To the ones that were there, yes.

Q. Were other employees working on Monday, January 21, when you came to work? A. Yes, they were.

Q. Were there any other rule changes that were made during your period of employment? A. Pardon?

Q. Were any other rule changes made during the period of your employment?

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A. Yes, that we weren't supposed to give out the numbers.

Q. When was that? A. January 21st.

Q. Forget what happened on the 21st, and forget the day you were employed.

You gave us one change, she told you to wait instead of hold, or vice versa. Were there any other changes made? A. She said we had to use a particular phrase to go to the bathroom.

Q. When did she tell you that? A. I don't remember.

Q. Was that a change in policy or were you always told that is what you had to say? A. I wasn't always told that is what I had to say.

Q. When was it changed? A. About two weeks, three weeks.

Q. Two weeks, three weeks from when you were first employed?

A. Yes.

Q. Were you told as a group, or were you told individually? A. I don't remember.

Q. When was the first time you ever discussed with

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Dru a grievance committee? A. On Monday.

Q. The 21st? A. Yes.

Q. What did you discuss the 21st of January when you met Dru at Chock Full O'Nuts before you began work that day?

MR. ROSENBERG: Objection, your Honor, that goes beyond the scope of direct. There was no evidence adduced as to any conversations had at Chock Full O'Nuts.

MR. DIAMOND: You said there was a meeting on direct examination.

MR. ROSENBERG: There was no testimony as to any discussions.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled, go ahead.

Q. What was discussed at that meeting? A. Personal business.

Q. Nothing about your employment? A. A few things.

Q. What, what was discussed concerning your employment? A. Just the job in general.

Q. The job in general?

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A. Yes.

Q. You felt that you didn't like some of the rules and regulations?

A. We had some objections to them.

Q. What rules and regulations did you object to during that meeting?

A. I really don't remember now.

Q. You don't remember now? A. No.

Q. Did you ever have discussions before January 21 about rules and regulations you didn't like? A. I don't remember. We talked a lot, I don't remember exactly what we talked about.

Q. You also talked with the other operators about rules and regulations you didn't like during your period of employment, general shop talk; isn't that correct? A. Not general shop talk.

Q. Barbara Joyce testified that there had always been conversations about grievances. A. The tensions were really building now.

Q. I didn't ask that.

When did the tensions begin to build? A. When the policies became inconsistent.

Q. When did the policies become inconsistent? A. Periodically.

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Q. You only testified to three changes, maybe at best two changes, when you first came to work, another change sometime two weeks afterwards, and a change on January 21.

During what period of change did the tension start building? A. Prior to January 21, a week prior.

Q. What happened a week prior to January 21st? A. I can't pinpoint any event. I just know that the tensions were building prior to the week January 21.

Q. You can't recall what caused that tension to rise? A. No, I can't. Just different things, different changes.

Q. What changes? A. Different changes made by Mrs. Lawton, different remarks made by Mrs. Lawton to different operators. I can't pinpoint anything right now.

Q. Did any operator ever tell you what was said to them that caused them to feel that the tensions were rising? A. Yes, Barbara Joyce made mention that she was a grown woman, she didn't need to be told when to say please and thank you.

Q. Did she say that on January 21?

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A. She said it before, that she was a grown woman and she didn't have to be treated like a child.

Q. When Barbara Joyce made that statement, she didn't have to be treated like a child, she wasn't talking about the rule changes of January 21, did she? A. She made that statement quite a few times in regards to what was done on January 21 and prior.

MR. ROSENBERG: I ask that her answer be stricken until we get a ruling.

There is no relevance to this at all. He is going far beyond any means of testing credibility.

MR. DIAMOND: I think it is beyond credibility at this point. I think General Counsel has tried to establish a course of events that led up to the termination of these employees, and I think it is important to find out if these course of events really caused the termination of these employees.

MR. ROSENBERG: Our position is that it is totally irrelevant as to what changes took place.

The fact that there were policies and changes and discussions about these, and that there was a posting of the notice, are relevant.

What particular changes took place, and when they were in to effect, is totally irrelevant.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I don't know.

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All of this goes in to the merits of the grievances that the employees had.

MR. ROSENBERG: Are the merits irrelevant?

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I don't know whether they are irrelevant in this particular instance. Except perhaps it could be that the fact that the grievances could be completely without merit might have some affect upon the actions taken, the legality of the actions taken by the University.

I realize it might be somewhat remote.

MR. DIAMOND: I think we will also establish testimony, I don't want to give my punchline, but it may be necessary at this point, that in fact there were no grievances. The employees didn't talk about grievances on Monday and Tuesday.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: The merits of the grievances are not important.

MR. DIAMOND: I'm talking about conversations that these employees allegedly had.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: This goes to the merits. It goes to the necessity for the actions that they took and the counteraction that was taken by the University. It is all part of one picture.

I think I'm going to allow it. It may be going a little far afield, but I'm going to allow it.

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MR. ROSENBERG: When he gets to the fence, into the next field, I'll rise and scream again.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: You can do that, Mr. Rosenberg, it is your privilege.

Q. Did you ever tell Mrs. Lawton that you put up the second notice Tuesday, January 22? A. I didn't get a chance to. She literally avoided me.

Q. I think you answered the question.

In your affidavit that you gave to the Board agent, you never mentioned that the rules were changed on January 21, did you? A. Yes, I did. I told him that she called us in to her office.

Q. Did you read this before you signed it? A. I beg your pardon?

Q. Did you read your affidavit before you signed it? A. I think I did, yes.

Q. Did you call it to the Board agent's attention that he left that out?

A. Maybe I did, maybe I didn't. I don't remember.

Q. You did sign that this was a correct statement? A. As far as I could remember at that time, yes, it was a correct statement.

Q. Did you tell the Board agent that the reason you

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went in to Mrs. Lawton was because she had scoled you about sashaying around the office? A. That was part of it, but that wasn't the real reason why I went in to the office.

Q. What was the real reason? A. To express the legitimate grievances that they had been talking about.

Q. Hadn't you and Dru discussed that Dru would be the one to go in? A. I went in instead.

Q. There was a change of plans? A. I just decided to go in first.

Q. Were the other girls aware of what you were going? A. They were not there at the time.

Q. When you made your statement, you said the other girls were not aware of what I was doing, what I was going to do, what did that mean?

A. That I was going in to speak to Mrs. Lawton.

Q. And that the other girls weren't aware of it? A. Not at that time, no.

Q. So you decided to go in to Mrs. Lawton's office before the other girls had left for the day, the other operators? A. They were gone when I went in to speak to her.

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Q. What did you say when you went in to see Mrs. Lawton? A. I said that I felt that the rules and regulations were unfair to myself and the other operators. I quoted -- I said especially the one about us using that explicit phrase having to go to the bathroom, and also the inconsistency of policy.

Q. You told her that you felt that some of the rules and regulations were unfair to you, and unfair to the other employees? A. Unfair to us.

Q. Unfair to us? A. Yes.

Q. Did you tell that to the Board agent? A. Yes, I did.

Q. Could you read the quote on page 2? A. "I feel that some of the rules and regulations are unfair. One of the rules I mentioned was that we had to use the phrase "May I please be excused"."

Q. The phrase that is in quotes is "I feel that some of the rules and regulations are unfair"; is that what appears here? A. Yes.

Q. Thank you.

MR. ROSENBERG: I have to object. There is more

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to that statement, Mr. Diamond cut it off.

MR. DIAMOND: It is not in quotes.

MR. ROSENBERG: It is too.

MR. DIAMOND: May I please be excused to leave the room.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: What was it?

MR. DIAMOND: May I please be excused to leave the room to go to the ladies' room, that is in quotes.

A. That was because he asked us what was the phrase that we had to use, and he put it in quotes.

ADMINISTRATIVE LAW JUDGES FRIEDMAN: Mr. Rosenberg?

MR. ROSENBERG: At this time I would like to have Mr. Diamond put the entire affidavit into evidence. He has been taking selected portions of it and putting it in through the witness.

I would like to have the entire affidavit put in to avoid any prejudice that he is attempting to create by taking selected portions.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: What do you say to that, Mr. Diamond?

MR. DIAMOND: I have no intention of putting the affidavit into evidence, I don't think General Counsel can force me to put something into evidence that he himself may wish to, if he has the right to do.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: He has the

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right to make a motion to move it in evidence.

MR. ROSENBERG: I would like to offer it in evidence at this time.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Have it marked.

MR. ROSENBERG: Mark it General Counsel's Exhibit 9 for identification.

(Whereupon the document referred to was marked General Counsel's Exhibit No. 9 for identification.)

Q. Who helped write the notice that was placed on the bulletin board January 21? A. We all contributed to the notice.

Q. You say you all contributed? A. To the wording of the notice.

Q. Did Morris contribute anything to the wording? A. I don't know if he actually contributed to the wording or not. And if he did, what he contributed.

Q. Did any of the employees have any comments about that notice?

A. I really don't remember exactly what the comments were.

Q. Did Mrs. Lawton ask you to leave her office after you were terminated on January 23? A. Yes, she did.

Q. Did you then leave the office?

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A. I told her I wanted to see Mr. McGrady.

Q. Did you leave the office? A. No, I didn't.

Q. Where was Dru when you had your conversation with Mrs. Lawton on January 23? A. She was in the other room where the operators were.

Q. What position was she at on this diagram? A. I don't know. I wasn't looking. I was talking to Mrs. Lawton.

Q. Were you talking loudly? A. No.

Q. And had Mrs. Lawton ever previously threatened you with physical harm? A. No.

Q. Were you screaming after you had been told you were terminated? A. No, I was not.

Q. Did Mrs. Lawton scream that you were terminated? A. She screamed after she told me that I was terminated and I wanted to see Mr. McGrady. She started screaming.

Q. That is when she screamed "I'm going to lay me hands on you"? A. Yes.

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Q. At what point did Dru come in? A. About that point.

Q. What did Dru say? A. Under University policy, Muriel was entitled to a witness.

Q. Did you say anything after that? A. I didn't get a chance to say anything, Mrs. Lawton was screaming and yelling.

Q. When did you finally leave the room? A. I think after she called the security guards we left. We went outside and sat at our consoles.

Q. Did Mrs. Lawton ask you to leave her office? A. Yes, she did, she told us to get the hell out of there.

Q. Did she tell Dru at that time that she was terminated also? A. She told her she was terminated, she was next anyway, she was fired.

Q. Excuse me? A. She told her she was fired, that she was next anyway.

Q. That is when she told her she was next anyway? A. During that period of time.

Q. Mrs. Lawton didn't stick her head out of the door while you were waiting for security and say you were

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going to be fired anyway? A. I don't remember.

Q. You remember it different from what you stated in your affidavit; is that correct?

MR. ROSENBERG: Your Honor, show her the affidavit.

Q. Page 9, right there where it says "The guards arrived" A. "The guards arrived about five to ten minutes later. In the meantime, Mrs. Lawton came to the door of her office and yelled to Drucilla and yelled you were next anyway, you're fired for interfering".

Q. When did Mrs. Lawton fire Dru? A. During that period.

Q. During the period that you were in her office? A. I really don't remember right now. It could have been that particular moment or it

could have been afterwards. I do know she did fire her.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: You were present when she fired her?

THE WITNESS: Yes.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: You can't place in point of time during that conversation?

THE WITNESS: Your Honor, may I please explain? He is picking little things.

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At that time, there was a lot of commotion going on. She could have said it at the door of the office, in the middle of the office.

One thing I did now, she did say "you're fired, you were next anyway". I know she said it.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: All right.

Q. Did you ever call Mr. McGrady racially prejudiced against you?

A. Did I ever call Mr. McGrady racially prejudiced against me? I felt the firing was --

Q. Did you ever tell Mr. McGrady that? A. I may have, I don't remember.

Q. Do you remember when you may have told him that? A. The day I was fired, when we were talking.

Q. You're not sure? A. I'm sure I told him that.

Q. Now you're sure you told him that? A. I'm sure I made some mention of racial prejudice being involved, yes.

Q. That Mr. McGrady was racially prejudiced or Mrs. Lawton was?

A. I believe I said both of them was in my opinion.

Q. You told Mr. McGrady that he and Mrs. Lawton were racially prejudiced?

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MR. ROSENBERG: Objection, he is badgering the witness.

MR. DIAMOND: I'm trying to get a straight answer. She keeps changing her statement.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I don't believe she is changing her statement.

Sustained.

THE WITNESS: I didn't change my statement. All I said was --

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Miss, please, you will be asked questions by your counsel.

MR. ROSENBERG: Could you explain the procedure again to the witness, so she doesn't continue doing this?

ADMINISTRATIVE LAW JUDGE FRIEDMAN: You answer the questions that are asked and nothing else. Counsel for the General Counsel will object if it is an objectionable question. You are to volunteer nothing.

THE WITNESS: He is asking me two or three different ways.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Please.

Q. Did Mr. McGrady suggest that you file an official grievance? A. Yes.

Q. Did you then file an official grievance?

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A. Yes, we did.

Q. Did anyone during that official grievance say that you could not have a witness? A. No.

Q. Do you know the University policy as to being paid or getting time off when you worked on Martin Luther King's birthday? A. She said that we would have another day off for that day if we worked.

Q. You weren't going to get paid, you would just take another day off? A. Yes.

Q. When was the first time that you and Dru decided to be witnesses for each other when anything occurred? A. I think it was the afternoon of January 21.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I didn't hear you.

THE WITNESS: I think it was the afternoon of January 21.

Q. And then you found it necessary to repeat it again on January 22? A. We just reaffirmed our agreement.

Q. Did you make an agreement with any other employees that if they were called in that you would represent them as their witnesses?

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A. No, I didn't.

Q. Didn't Dru tell Mrs. Lawton when she came in to Mrs. Lawton's office that if Muriel is fired, you'll have to fire me too? A. I don't remember Dru saying that.

Q. She never said it? A. I don't remember her saying it.

Q. Isn't it a possibility that she did say it? A. I don't know. I don't remember her saying it.

Q. Did you try to give the book to Mrs. Lawton that you were carrying? A. I laid it on the desk.

Q. Did you tell her that there was a book there? A. I didn't get a chance to.

Q. Did Carl Snipes work during the vacation period December through January? A. I don't remember, he might have.

Q. Could he have worked during that period? A. Pardon me?

Q. Could he have worked during that period? A. He could have.

MR. DIAMOND: At this time, I would like to have a diagram of the

operator's room marked as Respondent's Exhibit 1 for identification.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: So marked.

(Whereupon the document referred to was marked Respondent's Exhibit No. 1 for identification.)

Q. On Wednesday when you received your check, did Mrs. Lawton hand you your check? A. Yes.

Q. On other Wednesday, other than January 23? A. She used to give them out, yes.

Q. Did you tell Drucilla on January 23 in Mrs. Lawton's office that you had been terminated? A. Did I tell her that I had been terminated?

Q. Yes. A. At that particular moment?

She knew I was terminated, she heard the commotion. I imagine she knew I was terminated.

Q. Did you tell Mr. McGrady on January 23 that Dru was acting as your witness? A. Yes, I did.

Q. You told that to Mr. McGrady? A. Yes.

Q. Was Dru there when you told Mr. McGrady that? A. Yes, she was.

Q. What else did you tell Mr. McGrady? A. I just explained what had happened and why I felt that the firing was unfair. That is all.

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ANDREA TYE SAFRAN

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Give your full name and address to the Reporter.

THE WITNESS: Andrea Tye Safran, 21 Claremont Avenue, New York.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Proceed.

DIRECT EXAMINATION

BY MR. DIAMOND

Q. Are you employed by Columbia University? A. Yes.

Q. What is your position with Columbia University? A. A personnel associate.

Q. Explain to us what a personnel associate is. A. I interview and I am liason between departments and the personnel office on matters of policy. Help people find jobs.

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Q. Thank you.

How long have you held that position with Columbia University? A. Since July 16, 1973.

Q. Did there come a time when Mrs. Onnie Lawton phoned you concerning a personnel problem in your office? A. Yes.

Q. Do you know when you received that phone call, on what date? A. January 14 or 15.

Q. Would you please tell us what Mrs. Lawton said to you and what you said to Mrs. Lawton during this conversation? A. Mrs. Lawton called me to ask me how to go about releasing an employee, what was the policy in other words.

I determined that the person was —

MR. ROSENBERG: Objection, not what she determined, what was said.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Q. Just tell us what Mrs. Lawton said to you and what you may have said to Mrs. Lawton. A. She called up to find out how to go about releasing someone. I asked her was the person within the probationary period. She said yes. I said who is it. She

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told me it was Muriel Hirschfeld.

I told her that within the probationary period, a person does not have to be given any kind of warning, that they can be released, terminated right then and there is you wanted to.

Q. Did you indicate to her as to when it would be best to terminate that individual as to any particular time?

MR. ROSENBERG: Objection, this is leading.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Would you repeat the question?

(Question read.)

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled, go ahead.

It is leading, perhaps.

THE WITNESS: Should I answer it?

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Yes.

A. I said "Yes, you can do it at the end of the pay period to make it easier."

Q. Did you know the name of Muriel Hirschfeld? A. Yes.

Q. How do you know Muriel Hirschfeld? A. I had referred her on the job.

Q. What you had described to Mrs. Lawton concerning a probationary employee, was that official University

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policy? A. Yes.

MR. DIAMOND: No further questions.

MR. ROSENBERG: May I have one moment, your Honor?

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Surely.

CROSS EXAMINATION

BY MR. ROSENBERG

Q. Mrs. Safran, I believe you testified that in this telephone conversation Mrs. Lawton asked you the procedure to be used in discharging an employee; is that correct? A. Yes.

Q. Did she indicate to you why she didn't know that procedure herself? A. I don't understand what you mean.

Q. Did she tell you that she did not know the procedure for terminating an employee? A. She called me to find out what to do. Obviously she didn't know.

MR. DIAMOND: I ask to strike obviously.

THE WITNESS: I'm sorry.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Strike it.

Q. I believe it was your testimony that you asked her whether the employee was still a probationary employee, or in the probationary period?

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A. Yes.

Q. Is it not a fact that she did not give you the name of Muriel Hirschfeld during that conversation? A. I asked her who the employee was.

Q. Mrs. Safran, do you recall having an interview with Mr. Robert Reisinger from the office of the National Labor Relations Board? A. If that was the name.

Q. He had a beard. A. Yes.

Q. And do you recall telling Mr. Reisinger that Mrs. Lawton had called you to ask the procedure for discharging a probationary employee without warning? A. No.

Q. In this conversation, did Mrs. Lawton tell you that she was going to discharge this employee, or did she merely ask you the procedure? A. She asked me the procedure.

Q. It was you who suggested to her that an appropriate time would be the end of a pay period? A. Yes.

Q. You didn't specify any particular pay period? A. No.

Q. In this conversation, did Mrs. Lawton state any reason for the termination of this employee?

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A. I don't remember.

Q. And it is your testimony that it is University policy to terminate an employee without any warning whatsoever? A. Yes, within the probationary period.

Q. Is it University policy to just give a person her check and not tell them a few days before "We are going to terminate your employment on Wednesday"?

MR. DIAMOND: Objection, the witness has answered the question.

MR. ROSENBERG: A different question, your Honor.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled.

MR. ROSENBERG: Repeat the question.

(Question read.)

A. Yes, within the probationary period.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I didn't hear you.

THE WITNESS: Yes, within the probationary period.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I think she has answered that satisfactorily.

Q. As an expert in the field of personnel relations --

MR. DIAMOND: Objection, I never qualified the witness as an expert in the field of labor relations.

MR. ROSENBERG: I said personnel relations.

MR. DIAMOND: Even personnel relations.

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ADMINISTRATIVE LAW JUDGE FRIEDMAN: She says she is an assistant in the office. I don't know whether that qualifies her.

Q. In your position as a personnel associate in the personnel office at Columbia University, do you feel that this is a fair or nice procedure?

MR. DIAMOND: Objection, your Honor.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I don't think it matters. Sustained.

MR. ROSENBERG: No further questions, your Honor.

REDIRECT EXAMINATION

BY MR. DIAMOND

Q. Do you remember at the present time what caused you to ask the name of the employee Mrs. Lawton was speaking of? A. Yes.

Q. What caused you to ask the name of the employee? A. Because I do refer out people on jobs, I wanted to know if it was someone I had referred.

Q. Was it anything that Mrs. Lawton had said?

MR. DIAMOND: Strike that.

Q. Did Mrs. Lawton say she was going to discharge someone, or did you just assume that the questions she was asking meant that she was going to? A. Yes.

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Q. Which part? A. Yes, assumed.

Q. And did Mrs. Lawton give you a name when you asked. A. Yes.

MR. DIAMOND: No further questions.

MR. ROSENBERG: No further questions.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Mrs. Lawton, as I understand it, was the boss of the telephone section for how long?

MR. DIAMOND: October 26.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Just a couple of months before all of this took place?

MR. DIAMOND: Yes.

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JAMES McGRADY

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Give you name and address to the Reporter.

THE WITNESS: James McGrady, 511 Cedar Lane, Paramus, New Jersey.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Proceed.

DIRECT EXAMINATION

BY MR. DIAMOND

Q. Mr. McGrady, are you employed by Columbia University? A. I am.

Q. What is your position with Columbia University? A. Associate director of purchasing.

Q. How long have you held that position? A. About 12 years.

Q. What are your responsibilities -- do any of your responsibilities have to do with the operating room? A. They do.

Q. What are those responsibilities? A. I am the supervisor of all communications at the

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University.

Q. Does Mrs. Onnie Lawton report to you? A. She does.

Q. Did you ever have any conversation with Mrs. Lawton concerning

the discharge of an employee? A. Yes.

Q. Do you remember when that conversation took place? A. Yes.

Q. Will you please tell us when? A. I had a call from Mrs. Lawton

Q. Do you recall the date you received that call? A. I had a call approximately about January 11th or 12th.

Q. Mrs. Lawton called you? A. Yes.

Q. Would you please tell us what she said and what you said during that phone conversation? A. Mrs. Lawton said that she had a temporary employee that she wasn't very happy with, and that she wanted to get rid of her.

I asked her who it was. She said it was Muriel Hirschfeld.

I said, "What is the matter?". I said, "You better come over and talk to me about it, come to my office and talk to me about it."

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She said she would come.

Q. Do you remember if Mrs. Lawton used the word temporary or probationary employee? A. Probationary, I believe.

Q. Did Mrs. Lawton come over to see you at your office? A. Yes, she did.

Q. Was it the same day as the phone conversation? A. I believe it was.

Q. What happened during that meeting? What did she say and what did you say concerning the employee, the probationary employee? A. She came in and I asked her to sit down and tell me what she had to say.

She said that she had been observing this employee, Muriel, since she had been employed, and that she didn't seem to fit in with the other telephone operators, and that she had - she didn't seem to be able to carry out orders, that her attitude was surly, and that some of the other operators had also

come to her and said that she didn't seem to fit in with the whole group.

Q. Did she name any of the other operators who had come to her?

A. I think she mentioned one was Betsy Reed, who

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was the clerk-typist in the office, and then she said she heard it via the grapevine from some of the other operators.

MR. ROSENBERG: Your Honor, I object. This is hearsay if he is putting it for the truth of what Mrs. Reed said to Mrs. Lawton.

MR. DIAMOND: I'm not submitting it for the truth. I'm submitting it for what Mrs. Lawton told Mr. McGrady.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I'll take it for that purpose and that purpose only. Otherwise, it becomes hearsay.

Q. Was anything decided? Did you decide anything at that meeting?

A. Yes.

Q. What did you decide?

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Q. Do you know approximately what time you spoke to Mrs. Lawton on the phone concerning the termination? A. I would estimate that it was about 12:40, perhaps.

Q. Did you then go over to the operators' room? A. I did.

Q. What happened when you went in to the room? Tell us what you said, if anyone said anything to you, what you did. A. I went into the room. Onnie was standing out in the operators' room. Mr. Sidlowski was talking with Drucilla and Muriel. Onnie came up to me and she said Mr. Sidlowski is talking with them, calming them down.

She didn't say much of anything right then.

Q. What did you then do? Did you then do anything? A. I

looked over and Mr. Sidlowski came over to me

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and said they wanted to talk with me.

Q. Who is they? A. Drucilla and Muriel.

Q. Did you then go over and talk with Drucilla and Muriel? A.

Then Mr. Sidlowski said "I guess you won't need me, you're here".

I said, "I guess that is right, everything will be all right".

I went over to talk to Muriel and Drucilla.

Q. What did you say to Muriel and Drucilla and what did they say to you? A. Well, I told them to come in to the chief operator's office.

They both walked in with me. I told them to sit down; they sat down and I sat down at the chief telephone operator's desk.

I said, "Now, what is the trouble girls", or words to that effect.

Then Muriel started talking. She would say in a very excited voice a few words and then Drucilla would interrupt her and say a few more.

MR. ROSENBERG: This is characterization. We only want to know what was said.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained, strike it. Strike the part about the words.

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A. Muriel said "I was fired, you can't do it".

Drucilla, before she interrupted said "This isn't legal".

To tell you the truth, they both kept talking, interrupting each other, so I couldn't make any sense out of it.

Do you want me to go on?

Q. Yes. A. So I told Drucilla and Muriel, I said, "Wait a minute. I'll listen to you girls one at a time because I can't make any sense listening to both of you speak at the same time".

I said "Drucilla, will you please sit and be quiet. I'll listen to you after I listen to Muriel. Now, Muriel, will you tell me your story".

Muriel told me that she had come in, Mrs. Lawton told her she was terminated, this was illegal, and she said Mrs. Lawton fired her because she was black, that it was racial, and she had been a good employee and there was no reason for her to be fired.

That was about it.

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Q. Did either Dru or Muriel at that time say anything about the right to have a witness?

MR. ROSENBERG: Objection, your Honor, leading.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I'm going to sustain that.

You have been putting these kind of questions to the witness quite often. I can't give much credence to testimony elicited by leading questions.

Q. Was anything ever mentioned about witnesses?

MR. ROSENBERG: Objection, still leading.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Go ahead.

MR. ROSENBERG: I think he got his point across.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled, go ahead.

A. Shall I answer it?

Q. Yes. A. I didn't hear that word mentioned at this time.

Q. Was anything else said by you concerning the employee's termination?

A. Will you repeat that?

Q. Was anything else said by you concerning these employees' termination? A. Yes.

After I had finished listing to Dru.

Q. What did you say?

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A. After I finished listening I said, I told Muriel as a probationary employee I was going to uphold her termination, and that Dru, I said, "You claim you have been fired. If you were fired, I'm going to rescind the firing and change that to a suspension".

I said "I have to look into this further".

Q. Was anything said about grievances? A. No, that wasn't mentioned that I recall.

Q. How did your conversation end with the employees? A. I believe I told them -- I think I gave them a little talk about racial prejudice in the operators' room, told them that I didn't believe that **there** was any, at least half our operators were minority group members, and ever since, I have been there we pushed to hire minority people and we have succeeded in hiring at least half of our telephone operators as members of a minority group. That I thought that if they wanted to pursue this firing any further, that I thought they had a perfect right to go over and talk to personnel and take it up over there.

They said they were going over there.

That is the way it ended.

* * * * *

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Q. Did Drucilla Cornell on January 23 give you any reason why Mrs. Lawton fired her? A. Yes.

Q. What did she say? A. I think Drucilla was telling me a story, she said I told Mrs. Lawton that she couldn't fire Muriel, if she left I would leave with her.

She said Mrs. Lawton said -- she said that Mrs. Lawton said "You're fired, too".

MR. DIAMOND: No further questions.

CROSS EXAMINATION

BY MR. ROSENBERG

Q. I believe you testified that you had a meeting — you received a phone call from Mrs. Lawton on January 11 or January 12 in which she stated she had a probationary employee with whom she wasn't very happy; in that not your testimony. A. That is about right.

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Q. Are you sure of that date? A. I know it was right in there.

Q. Right in there — A. The 12th of January is a Saturday; is that not correct? A. It could be. Then it was the 11th.

Q. Would it be possible that it is the 14th or the 15th, the Monday of the following week? A. No.

Q. You directed Mrs. Lawton to come over to your office? A. That is correct.

Q. Was anyone else in your office when you talked to Mrs. Lawton? A. I think Mr. Nelson was there for awhile.

Q. Is that the same day or is it possible that that was on the 14th or the 15th? A. No, that was the same day.

Q. What did Mrs. Lawton say to you in that conversation? A. She said that she had a probationary employee, Muriel Hirschfeld.

Q. We are referring to when she met with you and Mr. Nelson.

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A. Yes.

Q. What did she say to you? A. She had this girl that didn't fit in over there, told me why.

I asked her why, she gave me the reasons.

She said she would like to let her go.

Q. Now, what were the reasons that she gave?

Why did she say Muriel Hirschfeld didn't fit in? A. She just said

she didn't fit in with the operators. She doesn't seem to be able to carry out orders.

Q. Did you ask her what she meant by didn't seem to be able to carry out orders? A. It was evident to me.

Q. What did it mean to you? A. It meant she doesn't do what she is told on the job.

Q. Did Mrs. Lawton give you any specific instances? A. No.

Q. Did Mrs. Lawton ever say that she had warned Muriel Hirschfeld about her conduct? A. I believe she told me that she had talked with her several times.

Q. Did she ever tell you that she had warned her? A. Warned her, no.

Q. What did you say to Mrs. Lawton as a result of her

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presentation to you? A. I told her that she was the boss of the telephone room, and that people had to work for her. She was Columbia University's representative, whatever she decided, we would go along with it. If she wanted to terminate her, go ahead.

I told her "Before you do it, call personnel and make sure you do everything in the correct manner".

Q. Would it be fair to say that you authorized Mrs. Lawton to make the decision whether or not to discharge Muriel Hirschfeld, it was up to Mrs. Lawton because she was the boss? A. With my confirmation.

Q. You would back her up, that you would support her if she decided to terminate Muriel Hirschfeld? A. I would.

Q. At any time, did she specifically state when she was going to terminate Muriel Hirschfeld? A. Yes, before her probationary period was up.

Q. Before the probationary period was up? A. Yes.

Q. The probationary period is a 60 day period? A. Yes.

Q. Which means Mrs. Hirschfeld's probationary period would end sometime in the month of February; is that not

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correct? A. I don't remember the dates of her hiring.

Q. She started on December 13, and that fact is in evidence, and 60 days would be February 13? A. Correct.

Q. So that Mrs. Lawton had the authority to discharge Muriel Hirschfeld at any time before the end of the probationary period; is that not correct?

A. That is correct.

Q. And she didn't have to come back to you to obtain clearance before she put the papers in and terminated Mrs. Hirschfeld? A. No.

Q. In the light of the complaints in Mrs. Lawton's statements that Muriel Hirschfeld did not fit in, and in view of the fact that you had this meeting supposedly on January 11, why was it decided to continue Muriel Hirschfeld for nearly -- until anytime during the end of her probationary period?

If she didn't fit in, it would seem that you could terminate her at will.

* * * * *

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Q. I believe you testified on the morning of January 22nd, you received a telephone call from Mrs. Lawton; is that not true? A. Yes.

Q. And that the subject of this telephone conversation was a notice which she found on the bulletin board dealing with employee rights? A. Right.

Q. Mrs. Lawton was concerned about finding this notice on the bulletin board, was she not? A. I gather that she thought it was unusual.

Q. So unusual that she called you? A. Yes.

Q. Did Mrs. Lawton read the notice to you over the telephone?

A. Yes.

Q. How did she sound? A. She sounded like she was wondering what it was all about, and a little amused, interested.

Q. Wouldn't it be fair to say that she sounded concerned?

MR. DIAMOND: Objection, your Honor.

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ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled.

MR. ROSENBERG: Read back the question, please.

(Question read.)

A. Not very.

Q. The notice dealt with worker's rights, it began with the statement "Workers do have rights".

Did she ask you whether workers have rights?

MR. DIAMOND: Objection. This is beyond the scope of direct examination.

MR. ROSENBERG: The notice was referred to in direct examination, your Honor.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled.

A. Repeat the question.

MR. ROSENBERG: Repeat the question.

(Question read.)

A. No.

Q. I show you General Counsel's Exhibit No. 2 in evidence.

Now, Mrs. Lawton said that she found the note to be amusing. What in there — A. Do you want to wait a minute? Am I supposed to read this first?

Q. You may, I'm sorry.

You said that Mrs. Lawton said she found the note amusing. What in that notice did she find amusing?

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MR. DIAMOND: Objection. He is misrepresenting what the witness stated.

MR. ROSENBERG: I am not. That is his testimony. She said she found it amusing.

A. I said my opinion was that it seemed like it amused her a little.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I know the word amused was used. I don't know the exact context.

A. You asked me how she sounded, I said she sounded interested and even a little amused by it too.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: That is exactly what he said.

Q. What was it that she said that made you feel that she found the note amusing? A. Just the tone of her voice.

Q. And you directed her to make a copy of the notice and bring it to you? A. Right.

Q. And she did so? A. Yes.

Q. On that day? A. I believe that afternoon, I'm not absolutely sure.

Q. Mr. McGrady, for what purpose were you filing this notice away?

A. We file everything at Columbia University, we

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never throw anything away.

Q. Do you own a lot of warehouses?

MR. ROSENBERG: Withdrawn.

Q. Let's turn to January 23rd in the morning. A. Yes.

Q. Did Mrs. Lawton again call you on that day with regard to a notice

that she found on the bulletin board? A. I believe she did.

Q. I show you what is General Counsel's Exhibit 4 and ask you to look at it? A. Yes.

Q. Did Mrs. Lawton read that notice to you over the telephone? A. I believe she did.

Q. I believe you testified that she found this notice to be derogatory. A. That was my interpretation.

Q. What did she say about the notice? A. It was the tone of her voice.

Q. I asked you what did she say about the notice? A. She asked me what she should do with it.

Q. What did you tell her? A. File it.

Q. Did you ask her to bring you a copy? A. Make a copy and bring me a copy for my files.

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Q. The same warehouse? A. No, a different warehouse.

MR. DIAMOND: Objection, your Honor.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Strike the question and answer.

Q. During that conversation, did Mrs. Lawton make any statements to you concerning the notice that she had found on the bulletin board the previous day? A. I don't believe so.

Q. Other than reading these two notices to you, did she make any comment about the content of either of the notes? A. Not that I remember.

Q. She made no comment to you about the content of this poem "Cows may come, Cows may go --" et cetera? A. I don't remember any comments.

Q. She made no comment as to what she thought it meant? A. No.

Q. Did she appear disturbed? A. Not really.

Q. Just a matter of passing interest that she found a notice on the bulletin board starting Cows may come, Cows may go? A. That's right.

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Q. Did Mrs. Lawton tell you that she had taken the notice down?

A. I believe she did.

Q. Did she say anything about who had posted the notice? A. No.

Q. Did she say that she didn't know who posted it? A. I think she did say -- I think she made the statement "I don't know who put them up".

Q. Did she indicate that she wanted to know who put them up? A. No. I think I remember saying "That is not important to me".

Q. Mr. McGrady, when Mrs. Lawton read the notice to you over the telephone concerning worker's rights, did you express any opinion to her as to any of the matters contained in that notice? A. I don't believe I did.

* * * * *

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Q. Is it the policy of Columbia University to terminate a probationary employee without any prior notification or warning? A. I would say yes.

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Q. The person just receives their check and that is the end of their employment? A. That is correct.

* * * * *

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ONNIE LAWTON

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Give your name and address to the Reporter.

THE WITNESS: Onnie Lawton, 5370 Broadway, Manhattan.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Proceed.

DIRECT EXAMINATION

BY MOR. DIAMOND

Q. Mrs. Lawton, are you employed by Columbia University? A.
Yes, I am.

Q. What is your present position? A. Chief operator.

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Q. How long have you held that position? A. Since October 26,
1973.

Q. Did you work for Columbia University prior to becoming super-
visor? A. Yes.

Q. Where did you work at that time? A. I started as an operator
on the 27th of October, 1964.

Q. Were you ever assistant supervisor? A. Yes.

Q. For what period? A. From August 25, 1971 to October of
1973.

Q. Do you remember what date Muriel Hirschfeld was hired? A.
December 13, 1973.

Q. Did you have a discussion with Muriel Hirschfeld on December 13
concerning a probationary period? A. Yes.

Q. What did you tell Mrs. Hirschfeld? A. I explained to Mrs.
Hirschfeld that we had a two week training program, and each new employee
was put on a two month probationary period. Within the two week period,
or the two months probationary period, if I was dissatisfied, then I would
let her -- I would terminate her.

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That was the understanding at present when I first interviewed her.

Q. When you interviewed her, did you give her a list of the regulations that you had for the operating room? A. Yes, I did.

Q. Is that list contained in General Counsel's Exhibit 7? A. Yes, it is.

Q. When did you give this list to the other employees who were operators? A. Shortly after I became chief operator, which would be the end of November or the — I'm sorry, the end of October or the 1st of November.

Q. Did you ever change any of the nine rules listed in General Counsel's Exhibit 7? A. No, I have not.

Q. Did you ever call Muriel Hirschfeld or Drucilla Cornell in your office on January 21 to tell them of new rules or regulations?

MR. ROSENBERG: Objection this is leading.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Q. Did you ever discuss any rules or regulations with Muriel and Drucilla Cornell after they were hired? A. No.

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Q. Did you ever change the rules? A. No.

Q. After they were hired? A. No.

MR. ROSENBERG: Objection, your Honor.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled.

Q. When did you decide to terminate Muriel Hirschfeld? A. January 11 I spoke to Mr. McGrady about it.

Q. What did you tell Mr. McGrady? A. That I was dissatisfied with Mrs. Hirschfeld, she didn't fit in with the other operators, and she refused to take orders of supervision from me.

Q. Did Mr. McGrady say anything to you? A. Well, he told me he didn't want to discuss it on the phone, he wanted me to come over to his

office to discuss it.

I went over to discuss the matter with him.

Q. Was any decision arrived after that discussion? A. Yes.

Q. What decision was that?

MR. ROSENBERG: Objection, your Honor. She can only testify to what was said, not to a decision or conclusion.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: All right, sustained.

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Q. What was said at the end of your conversation with Mr. McGrady.

A. That I could terminate Mrs. Hirschfeld, but for me to check with personnel to do it the correct way.

Q. Had you ever terminated anyone before when you were supervisor?

A. No, I had not.

Q. Had you terminated anyone when you were assistant supervisor?

A. No, I had not.

Q. What did you then do after you had that conversation with Mr. McGrady? A. I spoke to Mrs. Tye in personnel and asked her about the procedure in which terminating a probationary employee. She explained to me what the situation was, that I did not have to give her notice as long as she was on probation.

Q. Did you decide to terminate Muriel Hirschfeld on any particular day? A. Yes, the 23rd.

Q. For what reason did you choose the 23rd? A. I was told by my superiors to wait until the 23rd since that covered the pay period.

Q. Who told you that? A. Mr. McGrady.

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Q. Did you have any discussions with Dru or Muriel on January 21st?

A. Yes, I did.

Q. When did you have those discussions, and with whom? A. I saw Muriel Hirschfeld on the 21st of January.

Q. At what time? A. It was in the afternoon. I would say about 10 to 5:00 or a quarter to 5:00.

Q. How did that meeting come about? A. She said that she wanted to see me. I went in to my office and I took her inside. She discussed with me that she was not satisfied with the way I was treating her, and she didn't want to be told when to go to the ladies' room, or when to do this, or when to do that.

I told her that she had to do it as long as I was in charge, because it was always done that way.

Q. Was that rule in effect when you were an operator? A. Yes, it was.

Q. Did you ever change that rule? A. Never.

Q. What was the reason for that rule? A. Because the consoles could not be left unattended. You have to have someone at the position at all times.

Q. How do these consoles work? Will you explain the

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operation of the operators' room? A. I have five consoles. They are desk-type positions. One person has to sit at each console. In the mornings the hours vary. When one person has to take a coffee break or go to lunch, another operator will in turn relieve the operator that is sitting at a particular position.

You cannot leave it, as I said, without someone being there.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Can I ask a question?

A console, I'm not trying to interfere with you, a console, I presume,

is something similar to what used to be a switchboard. I realize physically it is different.

THE WITNESS: Yes.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: It is a better instrument now, correct?

THE WITNESS: Yes.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: It serves the same function as a switchboard?

THE WITNESS: Yes. It is this wide sitting in the center of the desk. You have to work it by buttons.

You put a headset in and work it.

Q. Do employees wear headsets?

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A. Yes.

Q. Will you describe what the headset looks like? A. It is a normal telephone headset that you put on one ear. You have a plug on the end that has to be inserted into the console to make the console ready to answer a call. That is the way you do the work. With the use of the headset, plug into that particular console. There are two sides that have plugs. If you would rather use it on the right or the left side. It has to be plugged in in order to use it.

Q. Do employees normally wear the headset all the times they are sitting at the console? A. They have to.

Q. What would happen if an employee got up from the console without asking your permission? A. If the headset is left in the console, a call would come in to the position and there would be no one there to answer it.

Q. Would that call ring on any of the other consoles? A. No, only on that one particular console.

MR. ROSENBERG: Your Honor, I don't see the relevancy of this whole line of questioning.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled.

Go ahead.

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Q. What happened when you came to work on the morning of January 22nd? A. The morning of January 22nd, I got in to work about 8:45 or so, and my assistant, Miss Roxanna Brandao said to me that there was a notice put up on the board.

She in turn took the notice down and brought it to me into the locker room.

I did not read the notice at that time. I took it into my office. I read the notice. At that point, I called Mr. McGrady to tell him that there was a notice posted on the board.

I did not know or question as to who had put the notice up.

Q. What reason did you call Mr. McGrady? A. I called Mr. McGrady to let him know that there was a notice posted on the board.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I think your answer was a little more than that. A. The board was not used for official business.

* * * * *

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* * * * *

Q. Is there any procedure that has to be followed before an operator can go to lunch or leave her console? A. Yes.

Q. What is that procedure? A. The procedure is to never leave the console unattended. If there is someone coming in at a certain time, or if someone is sitting at a position and that position itself has a busy on it, I would have to ask another operator to relieve the person at that position so

that that person could go to lunch or take a coffee

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break, or what have you.

Q. Are any employees ever permitted to leave the console without someone else covering for them? A. No.

Q. Did you have a discussion with Drucilla Cornell on January 22nd?

A. Yes, I did.

Q. What was that conversation about? What did you say and what did Drucilla say? A. When she came into the office, she said that she wanted to talk to me. I said certainly.

At that time, I was sitting at the console myself because it was busy and I was a little short that morning.

When I finished with the call, I turned my position off and I disconnected the set and I called her into my office.

She said that she wanted to tell me that she had put up the notice the night before, which was the notice that Mr. Rosenberg has put in as General Counsel's exhibit, the first notice.

She said to me that she did not like the way that I ran the office, and she thought I should change it.

I told her that I was the supervisor, and that was the reason I was there, to run it to the best of

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my ability.

Q. Did she say anything else to you? A. That was really about it. It was a very short conversation.

Q. Again, I don't remember if we went over the conversation, you had a conversation with Muriel the night before? A. Yes.

Q. Tell us what happened at that conversation.

MR. ROSENBERG: This is repetitious.

MR. DIAMOND: I don't remember if I did it.

MR. ROSENBERG: You did it.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: You went through it.

Q. How long did that meeting with Dru Cornell last? A. A very short period of time.

Q. Did you raise your voice during that meeting? A. No, I did not.

Q. Did Dru Cornell raise her voice? A. No, not that I can remember.

Q. Was anything ever said to you about a grievance committee? A. Never.

Q. What happened on the morning of January 23rd when you came to work?

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A. There was another notice posted on the board which was told to me by my assistant. Again I did not see it, she took it down and gave it to me in the locker room.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: This was the second notice?

THE WITNESS: Yes, that was the second notice that I found.

Q. What did you then do? A. I took the notice in to my office, I read it. Again I called Mr. McGrady and I said that there was another notice posted on the board.

He asked me to read him the notice. I did.

He also asked me to either bring him a Xerox copy, or send him a copy.

I did take him a Xerox copy the same day.

Q. Did you speak to Muriel Hirschfeld on January 23? A. Yes, I did.

Q. When did you speak with her? A. She reported to work at 12:00 noon. When she came in, I told her that I would like to see her in the office.

I called her into the office to tell her that she was being terminated and give her her check: to explain to her that we did owe her the "H" day pay for

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Dr. Martin Luther King's birthday. She had worked on that day and she was entitled to a day's pay.

Q. Did she make any response? A. She said to me that I had no right to terminate her.

Q. Did you scream at her? A. No, I did not. My voice was as normal as it is right now.

Q. Was her voice raised? A. Yes, she got a little loud about it.

Q. What then was said? A. She said that she wanted to talk to Mr. McGrady. I told her fine.

Then Drucilla came in to the office and she said I had no right to do this, and if Muriel was fired, that she was going to leave also.

I in turn said to her, if that was the way she felt about it, she was free to do that.

Q. Did you say anything else to Drucilla? A. I asked her to leave my office and to return to the console to work. She had never put her set in and actually reported to work. She came in and sat down. Just to listen, more or less, as to what I had to say to Muriel.

When I asked her to leave, she refused repeatedly

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to leave my office.

I in turn called the security, and I called Mr. McGrady.

Q. Did you ever threaten Muriel with bodily harm? A. No.

Q. Did you ever threaten Drucilla Cornell with bodily harm? A.

No.

Q. Did you ever threaten any employee with bodily harm? A.

Never.

MR. DIAMOND: I would like the timecard dated the week of January 21, 1974 marked for identification as Respondent's Exhibit 2.

(Whereupon the document referred to was marked REspondent's Exhibit No. 2 for identification.)

MR. DIAMOND: I would like to enter Respondent's Exhibit 1 into evidence.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Does this make a fairly --

MR. ROSENBERG: I would like voir dire on it.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: All right.

VOIR DIRE EXAMINATION

BY MR. ROSENBERG

Q. Mrs. Lawton, we have this piece of paper held with the indication R-1 in the lower

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right-hand corner, the right-hand of the person looking at it. A. Right.

Q. It shows going from that end of the paper proceeding to the left-hand side, it shows two consoles numbered 4 and 5, and another row 3, 2 and 1, and then this wall. A. Yes.

Q. What is the space on the other side of that wall? A. It is a room.

Q. Is that your office? A. That is my office. That is my desk.

Q. There is a little oblong diagram with a curvature behind it, which I

assume is a desk and chair? A. Yes.

Q. Will you please tell me the dimensions again? A. Yes.

From this desk to this partition it is 8 feet.

Q. Where on the desk did you measure that 8 feet from? A. From this end of the desk.

Q. The end, from the corner, from the center?

ADMINISTRATIVE LAW JUDGE FRIEDMAN: The nearest corner?

THE WITNESS: The nearest corner.

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Q. What was the other measurement you gave? A. From the partition to this console, or from the partition to this console, either one of the three consoles, you have five feet.

Q. It is five feet to the console from the wall? A. Yes.

MR. ROSENBERG: I have no objection.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: It is received.

(Respondent's Exhibit No. 1 for identification, was received in evidence.)

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Who drew this up?

MR. DIAMOND: I did, your Honor.

Q. Mrs. Lawton, will you please tell us what Respondent's Exhibit 2 is, identify it and tell us what its purpose is. A. Yes. It is a schedule of my part time workers, their hours and the days. I put the week of —

ADMINISTRATIVE LAW JUDGE FRIEDMAN: You make this up yourself?

THE WITNESS: Yes.

Q. Is this kept in the normal course of business? A. Yes, it is. It is posted on the bulletin board.

Q. Is that done on a weekly basis? A. Yes, it is.

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Q. There are signatures on this card. Are those your signatures? A.
No.

Q. Whose signatures are they? A. The signatures of my part time
employees.

Q. When do they put those signatures on the card? A. The days
they report to work.

MR. DIAMOND: I would like to submit Respondent's Exhibit 2 into
evidence.

MR. ROSENBERG: Objection. First of all, the hearsay rule, he hasn't
met his burden under the hearsay rule. He hasn't shown that this is a busi-
ness record.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: What else?

MR. ROSENBERG: And I would like to voire dire on that, if I may.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Certainly, go ahead.

VOIR DIRE EXAMINATION

BY MR. ROSENBERG

Q. Mrs. Lawton, did you prepare this card? A. Yes, I did.

Q. And this is your handwriting? A. Yes.

Q. And this is posted on the bulletin board?

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A. That is correct.

Q. How do you put it on the bulletin board? A. With two tacks.

Q. Two thumbtacks? A. They are not thumbtacks.

Q. The fancy map tacks? A. Yes. I really don't know the proper
name of them.

Q. When did you post this on the bulletin board? A. It was for the
week of January 21, so it would have gone up the Friday before.

Q. And it would have stayed up for the entire week? A. Yes.

Q. And it would have been taken down on Monday morning of the 28th? A. No.

Q. It never leaves the bulletin board? A. That is right, unless I take it down.

Q. Did you take this card down for any reason? A. I might have.

Q. I asked you if you did. A. I said I might have. I don't remember, really.

Q. And if you were to have taken it down, why would you have taken it down? A. To check hours.

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MR. DIAMOND: Objection, I don't see how that goes to the validity of the exhibit.

MR. ROSENBERG: It goes to the validity of the exhibit, your Honor, in that there are four thumbtack holes in the top and only one and a half on the bottom.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I'm not going to sustain the objection, but I think you pursued the whole business far enough.

MR. ROSENBERG: I still have my objection on the business records.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled, received.

MR. ROSENBERG: May I state my objection?

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Yes.

MR. ROSENBERG: He has yet to show that it is the regular course of the business to keep such a record.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Received.

(Respondent's Exhibit No. 2 for identification was received in evidence.)

MR. ROSENBERG: Not my objection.

Q. I believe I asked you the question, will you please tell us again what

is the purpose of this card and what you do with it. A. The purpose of this card is to let the part time employees know what days and what hours I have posted

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them for the particular week.

Q. What is the purpose for having them sign it? A. To know when they come in and when they don't come in.

Q. What do you then do with the card? A. I file it away in a cabinet.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: You make this out for each week?

THE WITNESS: Yes, it is made out for each week.

Q. Is this the original? A. This is the original copy.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Do you still want an exception?

MR. ROSENBERG: I'll withdraw that, your Honor.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: All right.

Q. How long did your conversation with Muriel Hirschfeld last on the afternoon of January 23rd? A. Not very long.

Q. Do you know approximately how many minutes? A. Well, I would say not more than five minutes, because I said what I had to say to her.

AFTER I asked her to leave the office and she refused, then I went back out to work.

Q. Did Muriel Hirschfeld place any object upon your desk when she came in on the 23rd?

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A. No, she did not.

Q. Was she carrying any object when she came in? A. Nothing more than her purse when she came in to my office.

Q. Do you recognize General Counsel's Exhibit 8? A. Yes, I do.

Q. Will you please tell us what it is? A. A termination letter to Mr. Henry K. Nelson.

Q. Did you write that termination letter? A. I wrote it and Mrs. Reed typed it up.

Q. When did you write it? A. The day of the 23rd.

Q. In the morning or the afternoon? A. It was in the afternoon.

Q. Before or after Muriel Hirschfeld was terminated? A. It was after Muriel Hirschfeld was terminated.

Q. What was the reason this was being sent to Mr. Nelson? A. Mr. Nelson does not take anything over the phone verbally. You have to sent it to him in writing.

Q. Did anyone tell you to sent that to Mr. Nelson? A. Yes.

Q. Who told you? A. Mr. Nelson himself.

Q. What was the reason he gave you?

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A. Because he would like to have it on file.

Q. When did Mr. Nelson tell you that? A. He told me that the morning of the 23rd.

Q. Had you spoken to him? A. Yes.

Q. What was the reason you spoke to him? A. About the termination of Muriel Hirschfeld.

Q. Did you ever change the regulations concerning what an operator should do if someone called up and asked for a number? A. No.

Q. What was the policy? A. The nine procedures that I gave to each operator I gave them to the new employees the day they were hired.

The other operators who were there had been given the procedures a day or so before I would say even Muriel and Drucilla were hired.

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ladies' room? A. Not only the ladies' room, any place.

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Q. Even off University property? A. That, I would imagine, would be up to the individual.

Q. Outside means anywhere other than inside room 114; is that true?

A. That is true.

Q. How would you feel if you had learned that someone was discussing the internal problems of room 114 outside of the office?

MR. DIAMOND: Objection, your Honor, how would the witness feel, I don't see the relevance of that question.

I don't know how one can answer that. Given a given situation, fine. We are dealing with hypotheticals.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Q. How would you feel if employees met outside the office and talked about the way you were running the office?

MR. DIAMOND: Objection, your Honor. Again if General Counsel has a specific instance where it happened and Mrs. Lawton knew about it, fine.

MR. ROSENBERG: I think I narrowed it enough.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Q. Mrs. Lawton, did you feel that the two notices that were posted infringed upon rule number 9?

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A. I beg your pardon, repeat the question?

Q. Certainly.

Did you feel that the two notices that were posted, the one on worker's rights and the poem beginning Cows may come, Cows may go, violated, infringed upon your interpretation of rule number 9? A. No.

Q. What was there then about those two notices that caused you to call Mr. McGrady on the telephone after you had read them? A. Just to let him know that I had found them placed.

Let me clarify myself. I did not find the notices. My assistant told me of the notices, and she in turn gave them to me in the locker room.

Q. After you read them, what prompted you to call Mr. McGrady? A. To let him know they were posted on the board. That was it.

Q. Was there a cartoon on that bulletin board? A. Not to my knowledge.

Q. Have there ever been any other notices posted on that bulletin board? A. Only official Columbia University business.

Q. Have there been any Christmas cards?

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A. Not on that bulletin board.

Q. When you were assistant supervisor, did you ever post anything on the bulletin board? A. Nothing at all unless I was told by my superior to put it on the bulletin board.

Q. Why did you feel you had to let Mr. McGrady know about this? A. He is my superior. Anything that takes place in 114, I have to report to him.

I take orders from Mr. McGrady.

Q. Do you have to tell Mr. McGrady if someone spills a coke on the floor?

* * * * *

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A. Well, if I have a problem which I feel that I cannot iron out myself, I would call Mr. McGrady and speak to him about it. Or if I have trouble with the equipment, I have to report to him about that.

Things that I feel that he should know about.

Q. Things that you couldn't handle yourself? A. Not necessarily that I couldn't handle myself. But I do, as I said, I have to take orders from him, and if there is something that comes about that I feel that Mr. McGrady should know about it, I get on the telephone and call him up.

Q. Important things? A. They are important as far as I'm concerned, yes.

Q. Did you feel that this notice about employee rights was important?

A. Well, I imagine, yes. I wanted him to know that

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I had seen it.

Q. Did you feel that the poem Cows may come, Cows may go is important? A. Not necessarily, but I wanted him to know that there was a second notice that I had seen that came from the bulletin board.

Q. How did you feel when you saw that Cows may come, Cows may go poem on the bulletin board? A. I felt that it was an insult.

Q. What did you think it meant? A. It meant to me that someone was trying to give me a message. They were just a coward and they couldn't put my name up on it.

Q. What was the message you thought they were trying to give you?

A. Just what the message said.

Q. What did you think it meant? I thought it was just a cute poem.

A. Not to me.

Q. What did it mean? A. As I said, someone was trying to insult

me. That is my interpretation.

Q. How is that insulting?

MR. DIAMOND: Objection.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

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Q. What was there about worker's rights that made you feel that there was a problem that you had to call Mr. McGrady? A. There was no problem as far as the notice went itself.

I wanted to let Mr. McGrady know that there was a notice that was posted on the bulletin board. I read him the notice. But I didn't think anything of it because no one had ever discussed with me about worker's rights.

Q. You had no knowledge about worker's rights? A. I had no knowledge about it at all. I first saw it when I got the notice.

Q. You didn't know that worker's have rights? A. I didn't say that.

Q. These part time telephone operators, can you give me the names of the part time telephone operators working in the evenings? A. Certainly. Beverly Beckles, Franklin Dobbins.

May I borrow this?

Q. Yes. A. Morris Dunlop, George Ford, Carl Snipes.

Q. Is that CARl? A. Carl.

Q. S-n-i-p-e-s?

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A. Yes.

Q. Yes. A. Christopher Wells, I have Percy Webb and Cynthia Werthamper.

Q. What is the normal shift for these evening operators? A. There are different hours for the part time people.

Q. Let's go through each one of these.

MR. DIAMOND: I think we have an exhibit as to what the hours are.
Does General Counsel contend that that is not an accurate representation?

MR. ROSENBERG: That is not my contention.

Q. What hours does Frank Dobbins work?

MR. ROSENBERG: I just want to pick up a couple of them. A. I
can give you the hours.

Q. Fine, I would appreciate it. A. Franklin Dobbins works Monday
to Friday, 6:00 p.m. to 11:00 p.m.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Isn't this on the card
itself?

THE WITNESS: Yes.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: It is in evidence. I
don't know why we are having an examination

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on it.

If it is your contention that they don't work these hours —

MR. ROSENBERG: That is not my contention.

Q. Do these people hold other jobs during the regular working day?

A. Some of them, yes.

Q. How about Frank Dobbins? A. Yes.

Q. Where does he work? A. Bakerfield, which is also Columbia
University.

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Q. I believe you testified if an operator left her console, but left her
headset plugged in, that a call would be sent to that console and would re-
main unanswered because the operator had left her headset in, but was not

there to handle the call. A. Yes.

Q. If the operator pulled her headset out, the call would not be sent to that console? A. That is not so. The equipment is very sensitive. If you don't know it, I can't explain it to you. It is a sensitive thing that you would have to know about the equipment for me to give you an explanation.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Can't the console be switched off?

THE WITNESS: Yes.

We have an on and off button.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: If she leaves the console and she takes her headset out and pushes that button, no calls will come in?

THE WITNESS: It will. That is why I said the equipment is very sensitive.

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It has been reported, I mean I do it daily with the telephone company, because it should not happen.

Q. It is essentially a malfunction, it shouldn't happen? A. It should not happen. As I say, it has happened at times.

If the position itself is turned off, and the set is removed, then the position is empty and it should not receive a call.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: But it does happen?

THE WITNESS: It has happened in the past.

Q. Does it happen often? A. No.

Q. A rare occurrence? A. Very rare, I would say.

Q. If an operator turned her console off to go to the bathroom, to get a cup of coffee, to get an aspirin, except in that rare instance where the equipment didn't perform properly, the call would go to another console; is that correct?

A. If the operator got permission to do it, yes.

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Q. On the evening of January 21, you directed Muriel Hirschfeld to change consoles? A. Yes.

Q. She turned off the console? A. Yes.

Q. Before changing? A. Yes.

Q. And when she turned that console off, no call could come through to that console unless there was a malfunction? A. That is correct. But Muriel Hirschfeld left her headset in the console.

Q. If you turn the switch off, does it matter whether you have the headset in or not? A. Yes, because it is supposed to be removed when you turn it off.

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Q. On January 21 when Muriel Hirschfeld went in to get an aspirin and came out, you spoke to her and told her she was not to leave her console — wasn't to sashay around the office. A. I did not say that.

Q. What did you say? A. My words to Muriel Hirschfeld was to take someone at another position. Instead of turning her position off

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and coming over to the other console to relieve the other person to go home, she in turn turned the position off, left her headset in, she went to the waste basket —

* * * * *

Q. Did she talk to you after that in your office? A. She said she wanted to see me later that afternoon.

Q. This happened a quarter to 5:00 in the evening, did it not? A. More or less, yes.

Q. What time do you normally go home? A. 5:00, 5:30, 6:00 o'clock.

Q. What time did you go home on January 21st?

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A. Well, it was after 5:00, after I spoke to Muriel.

Q. In that conversation, you told Muriel Hirschfeld that you made the rules, and that she was to abide by them? A. That is correct.

Q. And during that conversation, you didn't tell her that she was going to be terminated on Wednesday? A. No, I did not.

Q. At no time did you warn her that she was going to be terminated? A. No, I did not.

Q. Did Muriel Hirschfeld work during the Christmas vacation? A. Yes.

Q. Did you ever have a nickname for Muriel Hirschfeld? A. No.

Q. Did you ever hear the term "Speedy Gonzalez"? A. It may have been spoken in the office.

Q. Did you ever use that term in reference to Muriel Hirschfeld? A. Not that I can remember.

Q. On January 22nd, around lunchtime, did Dru Cornell tell you that she put up the notice? A. Yes.

Q. Did she say anything about Muriel having put up the notice? A. No, she did not.

Q. I believe you testified you told Mr. McGrady that Muriel Hirschfeld didn't fit in. What did you mean by the fact that she didn't fit in? A. She didn't get along with the other operators, and she did not want to abide by my rules and regulations. She was very belligerent when I spoke to her about anything.

Q. Did this offend you? A. No.

Q. Did it disturb you? A. No.

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ROXANNA BRANDAO

a witness called by and on behalf of the Respondent, being first duly sworn,
was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Give your name and address to the Reporter.

THE WITNESS: Roxanna Brandao.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Mr. Diamond.

DIRECT EXAMINATION

BY MR. DIAMOND

Q. Miss Brandao, are you employed by Columbia University? A.
Yes.

Q. What is your position? A. Assistant chief operator.

Q. How long have you held that position? A. Officially since
January 1st.

Q. Were you employed prior to January 1st by Columbia? A. Yes.

Q. In what position? A. Operator.

Q. How long had you been an operator? A. Sixteen years.

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Q. Sixteen years? A. Yes, I had two years before that.

Q. Do you recognize General Counsel's Exhibit 7? A. Yes.

Q. Could you please tell us what it is. A. It is the rules on how to answer, what to say, how long to keep a call waiting.

Q. Who gave you those rules? A. Mrs. Lawton.

Q. When did she give them to you? A. I can't give you a particular date. Soon after she settled down after becoming chief operator.

Q. Sometime in October? A. I imagine so.

Q. Did Mrs. Lawton ever change those rules, regulations? A. Not that I can remember. She has given us enough leeway that we are adults and we can do things that we think are necessary.

MR. ROSENBERG: Objection, that second portion is not responsive to the question, ask that it be stricken.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Strike it she has given us enough, from that point on.

Q. Were you working on Monday, January 21st?

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A. Yes.

Q. What time did you go to lunch on that date? A. I go to lunch between 11:30 and 12:30.

MR. ROSENBERG: That isn't an answer to the question. He asked what time did she go to work on that day.

A. I couldn't tell you that far back. Since it is something is done everyday.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: All right, leave it as it is.

MR. ROSENBERG: What was the answer again, your Honor?

A. I go to lunch between 11:30 and 12:30.

Q. Do you remember any discussions that day that you had with Muriel Hirschfeld and Dru Cornell? A. I can't say day by day thing, no.

Q. Was there anything mentioned about new rule changes?

MR. ROSENBERG: Objection as leading.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I don't know how else he can get into it.

Overruled.

Q. Did they say anything about any rule changes? A. I don't know about any rule changes. I think it would have been given to all of us.

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Q. Did they say anything? A. I don't remember. I can't say I remember.

Q. Was anything said by anyone about forming a grievance committee?

MR. ROSENBERG: Objection, your Honor.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled.

A. I can't remember the word grievance committee said. But if you're doing something else during a conversation, you don't hear the whole conversation.

Q. Did you participate in any conversation, such conversation? A. In all conversations that I am at, I participate in.

MR. ROSENBERG: That wasn't an answer to the question. The question was did she participate in that conversation. A. If I can't remember -

ADMINISTRATIVE LAW JUDGE FRIEDMAN: If you can't remember, say you can't remember.

A. I can't remember.

Q. Was anything said, do you remember if anything was said by any employee about going up to Mrs. Lawton on that day? A. As I say, I can't remember a day by day thing. Sometime during the time, there might have been something

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saying that they wanted to go to Mrs. Lawton.

Q. Do you remember if it was on Monday, January 21? A. No, I can't say that I do.

Q. Do you remember any discussion on Tuesday, January 22, concerning grievances? A. No.

Q. Did Dru or Muriel say anything to you on Tuesday January 22?
A. As I say, I can't remember the word grievance as a word that they wanted a grievance committee.

Q. Did you ever agree to a grievance committee? A. I don't remember agreeing to a grievance committee. I think if -- I suppose anyone has the right.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: We will strike if anyone has the right.

Q. Was anything ever said to you by Mrs. Lawton or Mr. McGrady about grievances? A. No.

Q. Did anyone say that you couldn't grieve? A. No.

Q. Did anyone say that the employees couldn't speak among themselves about grievances? A. I never heard anybody make that statement, no.

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Q. Do you remember seeing a notice on the bulletin

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board on the morning of January 22nd? A. I can't give you the date, but I have seen a notice on the board.

Q. Did you read that notice? A. Yes.

Q. Is this the notice that you read, General Counsel's Exhibit 2? A. Yes, this would be it.

Q. On Wednesday, January 23, did you see another notice on the bulletin board? A. Yes, I did.

Q. Would that be General Counsel's Exhibit 4? A. Yes.

Q. Did you see Mrs. Lawton take down those notices? A. Mrs. Lawton didn't take the notices down.

MR. DIAMOND: No further questions, your Honor.

CROSS EXAMINATION

BY MR. ROSENBERG

Q. Mrs. Brandao, on Monday, January 21 in reference to that date, I believe you testified that you don't -- that as far as the use of the word grievance committee was concerned, you don't remember that it was used. A. I don't remember the word used.

Q. On that day, were there discussions amongst the operators?

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A. I can't tell you if it was on that date. We talk during the working because it is a thing when you are not answering the call you say something. There is always some talk going on.

Q. On days in the month of January, during the period of time when Mrs. Lawton was out for her lunch, which was about 12:30 to 1:30, were there discussions amongst the operators about working conditions? A. I imagine there might have been.

Q. Were there? A. I can't remember exactly at a certain day at a certain time.

Q. Over that span of time, in the month of January. A. I presume there might have been. But I can't say for sure what was said on what day. If it was January, if it was December.

Q. Let's take that span of time from December 15 to January 23, do you recall discussions amongst the operators about working conditions? Do

you recall any discussions about working conditions? A. There were probably discussions about it. There were times we were interested in the union and we talked about union.

Q. Did Dru Cornell speak union with you? A. Yes, I was interested in it at the time. I was

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an operator. I believe in a union not only for the employee, but for the employer.

* * * * *

BY ADMINISTRATIVE LAW JUDGE FRIEDMAN

Q. Now, was there a day in this period that the counsel has referred to where there was an unusual amount of hubbub or an unusual amount of discussion in the office? A. There can't be an unusual amount, your Honor, for the simple reason we are working. I don't know if

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you know the kind of setup we have.

Q. You have answered my question.

Can you hear what goes on in the office? A. No, not really. I may be able to hear voices. I can't make the sentence out.

Q. Do you remember a day where you heard voices louder than usual during the same period of time; I know you can't fix an exact date? A. No, because the whole thing is Dru and Muriel come in at the time I'm out to lunch. A good percentage of the time I'm out to lunch, I don't even sit in the back.

Q. You say you didn't see who took the notices down? A. Your Honor, I saw the notice, I come in the first thing in the morning, I saw it. I left it on the bulletin board. I was sitting at relief at that time when Mrs. Lawton came in.

I said 'When you pass the bulletin board, will you look at it'.

She said, Fine."

She went out, she looked at it, she went exactly to her office.

Q. You couldn't see her reaction? A. No. When I came back and was about to sit down, she signaled me to bring it to her, I should put it on

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her desk. She read it. I left the office.

Q. Did she say anything to you at that time? A. No, she just sat down and read the notice and I went back to my desk.

Q. You didn't wait for her to say anything? A. No.

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MARIAN LLOYD

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Give your name to the Reporter.

THE WITNESS: Marian Lloyd, 820 Colgate Avenue, Bronx, New York, 10423.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: You may proceed.

DIRECT EXAMINATION

BY MR. DIAMOND

Q. Are you employed by Columbia University? A. Yes.

Q. What positions? A. Operator.

Q. How long have you held that position? A. I'll say five years because I have been there two years part time and three years full time.

Q. Do you remember any conversations between you — among you, Dru and Muriel on January 21 concerning

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grievances? A. No.

Q. Did you participate in any such discussions on January 21? A.
No.

Q. On Tuesday, January 22, did Dru Cornell tell you about any meeting she had with Mrs. Lawton? A. No.

Q. Did you ever see Mrs. Lawton physically threaten any individual?
A. No.

Q. On Tuesday, January 22, and on Wednesday, January 23, did Mrs. Lawton ever tell you not to post any notices on the bulletin board. A.
No.

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CROSS EXAMINATION

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BY MR. ROSENBERG

Q. Mrs. Lloyd, when is your lunch hour? A. 12:30 to 1:30.

Q. Did you, on January 21, did you hear any discussions amongst the operators? A. No. There may have been a discussion that I might have partaked in, but I don't remember what, because we are always talking about something.

Q. Your lunch hour is from 12:30 to 1:30? A. Yes.

Q. That is the same as Mrs. Lawton's lunch hour? A. Yes.

Q. You weren't in the office when Mrs. Lawton was out to lunch?

A. I imagine not, because at 12:30 I'm ready for lunch.

Q. If there were discussions during Mrs. Lawton's lunch hour, which corresponds to yours, you wouldn't be party to it?

MR. DIAMOND: Objection, that calls for a conclusion of the witness.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Q. Mrs. Lloyd, I direct your attention to January 23, around 12:00 o'clock.

MR. DIAMOND: Objection, your Honor, beyond the

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scope of the record.

MR. ROSENBERG: I'll make her my own witness for this.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: All right, overruled.

Go ahead.

Q. Did you observe or hear a conversation between Muriel Hirschfeld and Mrs. Lawton on that day? A. Yes.

Q. And where did that conversation take place? A. In Mrs. Lawton's office.

Q. Will you tell us what you heard? A. Well, Muriel came in at noontime. Mrs. Lawton asked her to come to her office, which she did. They started talking. I paid not attention because I was working.

But the only thing that sort of got my attention was when Muriel said "I'm not going to leave", and Mrs. Lawton says "You're going to get out of here, you will leave here".

Q. How was Mrs. Lawton's voice when she said that? A. Loud.

Q. Do you recall anything else being said in that conversation? A. Not between Muriel and Mrs. Lawton, no.

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Q. Did there come a time when Drucilla Cornell entered into the conversation? A. Well, Drucilla came in. They both came in at the same time as far as to work. They both came out to the positions with their headsets. Drucilla never plugged in on her console because she knew that Muriel was in to the office and she probably was listening, probably paying attention.

MR. DIAMOND: I ask that be stricken.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Only what you actually saw or heard.

A. Just what I heard?

Q. Yes. A. Drucilla left her position and went in to Mrs. Lawton's office and sat down.

Q. What conversations did you hear?

Did you see her sit down? A. I didn't see her sit down.

Q. You didn't see her sit down? A. My back is turned to Mrs. Lawton's office.

Q. What did you hear? A. Mrs. Lawton asked Drucilla what was she doing there. She said she came because Muriel needed a witness.

Q. Can you give me the rest of the conversation? What did Mrs. Lawton respond?

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A. At that particular time I asked permission to leave the room.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: When you returned, what was the situation?

THE WITNESS: When I returned, Mrs. Lawton had called security and security was there.

Q. Do you recall Mrs. Lawton saying "We didn't ask for a witness, return to your position"? A. She said -- she asked her to return to her position. She didn't say anything about we didn't ask for a witness. She just asked her to go back to her position.

Q. Mrs. Lloyd, I show you this affidavit which bears the signature at the bottom of page 5. I ask you if that is your signature? A. It is.

Q. Did you give an affidavit to Mrs. Reisinger, an NLRB agent, on the 18th of March? A. I did.

Q. I ask you to look on page 4 and just read this to yourself and see if you can refresh your recollection as to what occurred during that sequence.

A. This may have been, but I don't recall.

Q. Now, you have had a chance to read it, does this refresh your recollection as to what you told Mr. Reisinger on the 18th of March?

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A. I think I do, yes.

Q. Now, we will go over it again now that you have had a chance to refresh your recollection. A. All right.

Q. Drucilla Cornell went in to Mrs. Lawton's office. Will you now tell us what you recall being said? A. That Mrs. Lawton asked her what was she doing there, and she said that Muriel was due a witness, and Mrs. Lawton said "We didn't ask for a witness, will you return to your position".

Q. And then you asked to be relieved? A. No.

Yes, at that time I asked to be relieved to go down to the ladies' room.

Q. When you returned, security had arrived? A. Yes.

MR. ROSENBERG: I have no further questions.

MR. DIAMOND: Can I have any statement that this witness may have made?

MR. ROSENBERG: Yes.

REDIRECT EXAMINATION

BY MR. DIAMOND

Q. Mrs. Lloyd, do you remember if Muriel carried any book into Mrs. Lawton's office on January 23?

MR. ROSENBERG: Your Honor, this is going beyond

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the scope of direct.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled, go ahead.

I'm anxious to get the truth here.

A. A book?

Q. Yes. A. No, I do not.

Q. Do you know if the bulletin board in the operator's room is an official bulletin board? A. Yes, an official bulletin board.

Q. Who told you? A. No one.

Q. How do you know it is an official bulletin board? A. That is all that is placed there, official business.

Q. On January 23, did you hear Mrs. Lawton tell Muriel that if she doesn't get out of the office, she is going to lay her hands on her? A. No.

MR. ROSENBERG: I'll have to object.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: This is far beyond the scope of either his direct or his cross.

MR. DIAMOND: He asked what she heard on January 23 when she went into the office. I'm just trying to find out exactly the entire conversation, your Honor.

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He did open it up.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: All right, overruled.

Q. Did you hear Mrs. Lawton tell Dru Cornell that she is going to knock her teeth in when Dru Cornell walked into the office? A. No, I didn't hear that.

Q. Do you know if Dru Cornell asked to be relieved from her console before she went into Mrs. Lawton's office? A. No.

Q. You do not know, or she did not ask? A. I do not know whether she asked.

Q. Was Muriel talking in a loud voice to Mrs. Lawton when she said

"I'm not going anywhere"? A. Yes, loud.

Q. Was Dru Cornell talking loud when she went into the office? A.
Well, everyone was loud.

* * * * *

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GEORGE FORD

a witness called by and on behalf of the Respondent, being first duly sworn,
was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Give you name and address to the Reporter.

THE WITNESS: George Ford, Jr., Room 705 John Jay Columbia University.

DIRECT EXAMINATION

BY MR. DIAMOND

Q. Are you employed by Columbia University? A. Yes, I am.

Q. What is your position? A. I am a full time-part time operator.

Q. How long have you held that position? A. Well, as of around the end of September work study started, and about - around the - April, beginning of May work study ended and I was hired as a full time-part time for the summer.

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ADMINISTRATIVE LAW JUDGE FRIEDMAN: You are then still a student at Columbia?

THE WITNESS: Yes.

Q. Do you remember receiving rules and regulations when Mrs. Lawton became supervisor? A. No.

Q. Do you remember Mrs. Lawton constantly changing rules and regulations? A. No.

MR. ROSENBERG: Objection, your Honor. This is really leading.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled.

Q. What is the procedure for a part time employee when the report to work in the operator's room; what do you do? A. There is a schedule on the board, you write in the time you arrived, you sign your name under it, and from there, you proceed to get your headset and book and you sit down.

Q. I show you Respondent's Exhibit 2. Is this the time schedule that you sign when you report to work? A. Yes.

Q. Do you personally sign the card? A. Yes, I do.

Q. Is that your signature on January 22?

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A. Yes.

Q. Were you working on January 21? A. No. That was one of my heavier days, I did not have time.

Q. Did you have any discussions with Dru or Muriel on January 22?

A. On the 22nd?

Q. Yes. A. Not that I can remember.

Q. Was anything said by any employee about any meeting that had taken place that day with Mrs. Lawton? A. Not to me.

Q. Did you hear it said to anyone else? A. I really don't remember.

Q. Have you been at meetings with Mrs. Lawton for the part time operators? A. There was one meeting which she held officially for all part timers. I don't remember the exact time, but I do know it was past the time period in question.

Q. It was after January 22nd? A. Yes. I'm pretty sure it was.

Q. Do you remember any meeting prior to that time? A. If there was a part timer's meeting, it wasn't called to my attention, so I wasn't there.

Q. Was anything ever said to you about a notice that

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had been posted on the bulletin board the night before, or on the morning of January 22nd? A. No.

MR. DIAMOND: No further questions.

CROSS EXAMINATION

BY MR. ROSENBERG

Q. Mr. Ford, you stated you are a student at Columbia University?

A. Yes.

Q. What year are you in? A. I'll be a sophomore in September.

Q. During the month of January, 1974, were you on work study?

A. Yes.

MR. DIAMOND: Objection, your Honor, I don't see the relevance.

MR. ROSENBERG: It was covered in the direct.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I'll allow it, overruled.

Q. Under the work study program, how many hours a week do you work? A. We are allowed 15 hours a week maximum at \$2 an hour.

Q. And on Tuesday the 22nd of January, did you work from 2:00 to 6:00 o'clock? A. Yes, I did.

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Q. Did you leave at 6:00 o'clock? A. Yes, I did.

Q. Who hired you to work as a telephone operator on work study?

MR. DIAMOND: Object to the question.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I don't see the relevance.

All right, I can see some reason for it, overruled.

A. What do you mean?

Q. Who hired you to -- who assigned you to work in the telephone center on work study? A. When you get to the work study office, you

are given a deck of cards and you could look through the jobs available to find which one you like.

During my previous jobs, I had had some switchboard experience and I tended to like it, so I figured okay, here is a job I have experience in, I like it, it will be great.

I went for the interview later that day and I was hired almost on the spot by Mrs. Johnson.

Q. Where is Mrs. Johnson? Is she in the personnel office? A. She was then the chief operator at Columbia University, she has since retired.

Q. I believe you testified you are now a full time-

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part time operator? A. Yes.

Q. For the summer? A. As far as I know, yes.

Q. When school starts up in the fall -

DIAMOND: Objection, your Honor. I don't see the relevance of this. has gone beyond the scope of examination.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled, go ahead.

MR. ROSENBERG: Repeat the question.

(Question read.)

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I don't know why you need to go into the fall.

I think I'll sustain the objection.

Q. Mr. Ford, do you recall any discussions amongst the operators about working conditions or a grievance committee on days other than January 22nd?

MR. DIAMOND: Objection, your Honor, beyond the scope of direct.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled.

A. There had been discussions, but it is all part of the normal discussions that we had.

Q. Where did these discussions take place? A. Where?

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Q. Yes. A. In the operator room.

Let's say we have a slow day, there is bound to be some discussion. It can vary from whatever happened in the newspaper that day to -- well, at the time there was, I think, 1199 was out on strike, so that would take us into unions and that whole type of discussion.

Q. Were there any discussions on those days about a grievance committee? A. No, the words as per grievance committee concerning Columbia were never brought to me or my attention.

Q. Ever any discussions about getting together to discuss or present problems?

MR. DIAMOND: This is beyond the direct. If General Counsel wants to make this witness his witness and give me the right to cross examination.

MR. ROSENBERG: It is not.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled, go ahead.

A. Could you repeat the question?

MR. ROSENBERG: Repeat the question.

(Question read.)

A. None that I can remember.

MR. ROSENBERG: I have no further questions.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Redirect?

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REDIRECT EXAMINATION

BY MR. DIAMOND

Q. Mr. Ford, could you tell us, if you remember, when from the time of your employment when the first time employees started to talk about working conditions in the office? A. Well, I guess I would have to say

that the first time I ever really heard anything about working conditions would be once I was out of my two weeks training and was on part time duty. I was hired to fill in on the weekend shift.

Q. Was that back in May sometime? A. No, this was way back in September, October.

Q. Of what year? A. 1973.

Q. Before Mrs. Lawton became a supervisor? A. Yes.

MR. DIAMOND: No further questions.

RECROSS EXAMINATION

BY MR. ROSENBERG

Q. Did those discussions continue after Mrs. Lawton became a supervisor? A. Well, let's put it this way, the discussions were about working conditions, but they were never in terms of we don't like such and such a condition, let's bring it up before a grievance committee or before anyone.

As far as I'm concerned, I never heard anything

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of that sort said.

Q. During January, did these discussions intensify? A. Not that I can recall.

Q. You leave at 6:00 o'clock though? A. Yes, that is right, dining hall itself closes at 7:00. They stop giving out food at 6:30. So that leaves me roughly half an hour to go from my job to grab food.

Q. And is your normal work week, Tuesday, Saturday and Sunday?

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MORRIS DUNLOP

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Give your name and address to the Reporter.

THE WITNESS: Morris Dunlop.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: You may start.

DIRECT EXAMINATION

BY MR. DIAMOND

Q. Mr. Dunlop, are you employed by Columbia University? A. Yes.

Q. Are you employed as an operator? A. Yes.

Q. How long have you been employed as an operator? A. Part time nine years.

Q. Were you working on Monday, January 21? A. I don't know. I don't think so. I work Tuesday and Thursday.

Q. I show you Respondent's Exhibit 2 and ask you if that refreshes your memory as to when you worked during the week of January 21? A. I didn't work that Monday.

Q. Is that your signature on that card? A. Yes.

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Q. Did you ever speak to Dru or Muriel Hirschfeld on January 21st?

MR. ROSENBERG: Objection. .

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Overruled.

A. No, I wasn't there.

Q. Were there any discussions on Tuesday, January 22nd concerning any meetings that may have taken place that afternoon between Mrs. Lawton and any other employee? A. Not that I know of.

Q. Did Dru or Muriel say anything about any meeting? A. No meeting, no.

Q. Was there a discussion concerning the formation of a grievance committee? A. No, just the union, not a grievance committee.

Q. Had you been informed of any changes in the rules and regulations of the operating room during the week of January 21? A. Well, I was informed, but I don't know what date it was.

Q. Do you know if it was during that week? A. I don't remember.

Q. Was there any discussion on the evening of January 22nd concerning the posting of a notice the day before? A. I heard about it.

Q. What did you hear?

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A. Well, I heard that someone put a notice up on the board and Mrs. Lawton didn't like it. That is about it.

Q. Did Dru or Muriel say that they put that notice up? A. They didn't say.

Q. They did not say that? A. No.

Q. Did you see anyone put a notice up on the bulletin board on Tuesday, January 22? A. No.

Q. Did you ever have a discussion with Dru and Muriel concerning the fact that they were probationary employees? A. Yes, I told them to be careful of what they were doing because they were new.

Q. When did you have that discussion? A. Well, I told them that several times. I don't remember the days.

Q. Did you tell them that during the week of January 21? A. I might have said it the day before they got suspended, the 22nd, Tuesday.

Q. Do you know for a fact whether you did or you are just guessing?

MR. ROSENBERG: Objection, your Honor. He got

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an answer from his witness.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Sustained.

Q. Did you ever hear Mrs. Lawton talk to you about a plot or conspiracy against her? A. Not to me, but I heard it mentioned in the office.

Q. Did she ever say it to you during a meeting? A. I don't recall that.

Q. Did Mrs. Lawton ever tell you not to discuss working conditions with other employees? A. No, she never told me that.

MR. DIAMOND: No further questions.

CROSS EXAMINATION

BY MR. ROSENBERG

Q. Mr. Dunlop, where do you work during the days? A. The physical education department at Columbia University.

Q. I believe you stated that you had told Drucilla Cornell and Muriel Hirschfeld that they should be careful because they are probationary employees and might get in trouble for what they were doing. What did you mean when you said what they were doing? A. Well, they were new on the job and they were trying to organize the rest of the employees, to get into a union. I think they were having a little problem. I told them to take it easy. If the people didn't want

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to get into the union, they couldn't make them.

I figured they might get fired if they kept on trying to do this.

Q. I believe you stated you heard conversations about a plot or conspiracy. A. I heard it through conversation.

Q. What did you hear? A. Well, I heard that Mrs. Lawton said she thought there was a plot against her, a conspiracy.

Q. Who told you this? A. I don't know.

MR. DIAMOND: This would be hearsay, if Mrs. Lawton ever said it.

MR. ROSENBERG: Brought out by his witness. Mr. Dunlop is competent to tell me who told him this statement. The truth of the statement is

another question.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: That is correct.

Q. Do you remember who told you this statement? A. This was said a little after she got the position. I can't say. We sometimes have five people talking.

Q. Was this general talk around the office, that Mrs. Lawton thought there was a plot or conspiracy? A. Yes.

Q. I believe you testified that Mrs. Lawton did not

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like the notice that she found on the bulletin board. What did you hear about that? A. I come in at 5:00 o'clock in the afternoon and it was brought up that some note, I don't even know what it was said, was left on the board and he didn't like it.

Q. Who told you this? A. I don't remember now.

Q. Can you remember what was said? A. It was said that there was a notice left on the bulletin board and Mrs. Lawton didn't like it. I didn't know what was in the note.

Q. Was this a general discussion among the employees? A. Maybe for five minutes or so.

MR. ROSENBERG: I have no further questions.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: I have one question.

You say that when they came in, that is Drucilla and the other lady, when they started to organize, or talk about organization, you told them to take it easy, be careful because they might be fired.

What made you think that?

THE WITNESS: I have seen it happen a lot of places.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: At Columbia?

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THE WITNESS: No, not Columbia

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Not in this shop at
Columbia?

THE WITNESS: No.

ADMINISTRATIVE LAW JUDGE FRIEDMAN: Thank you. Mr. Diamond?

REDIRECT EXAMINATION

BY MR. DIAMOND

Q. Were you subpoenaed? A. No, I didn't get one.

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United States Court of Appeals

FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

v.

COLUMBIA UNIVERSITY,

Respondent.

No. 75-4155

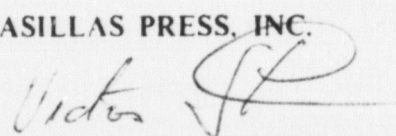
CERTIFICATE OF SERVICE

I hereby certify that I have served by hand (by mail) two copies of the
APPENDIX in the above-entitled case, on
the following counsel of record, this 16 day of March 1976

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